

**DEPARTMENT OF MANAGED HEALTH CARE  
HELP CENTER  
DIVISION OF PLAN SURVEYS**

**TECHNICAL ASSISTANCE GUIDE**

**LANGUAGE ASSISTANCE PROGRAM SURVEY  
OF**

**PLAN NAME**

**DATE OF SURVEY:**

**PLAN COPY**

*Issuance of this October 14, 2011 Technical Assistance Guide renders all other versions obsolete.*

# **LANGUAGE ASSISTANCE TAG**

## **LANGUAGE ASSISTANCE PROGRAM**

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## **Requirement LA-000: Language Assistance Program Implementation**

### **STATUTORY/REGULATORY CITATIONS**

#### **California Health and Safety Code section 1367.07**

Within one year after a health care service plan's assessment pursuant to subdivision (b) of Section 1367.04, the health care service plan shall report to the department, in a format specified by the department, regarding internal policies and procedures related to cultural appropriateness in each of the following contexts:

- (a) Collection of data regarding the enrollee population pursuant to the health care service plan's assessment conducted in accordance with subdivision (b) of Section 1367.04.
- (b) Education of health care service plan staff who have routine contact with enrollees regarding the diverse needs of the enrollee population.
- (c) Recruitment and retention efforts that encourage workforce diversity.
- (d) Evaluation of the health care service plan's programs and services with respect to the plan's enrollee population, using processes such as an analysis of complaints and satisfaction survey results.
- (e) The periodic provision of information regarding the ethnic diversity of the plan's enrollee population and any related strategies to plan providers. Plans may use existing means of communication.
- (f) The periodic provision of educational information to plan enrollees on the plan's services and programs. Plans may use existing means of communications.

#### **28 CCR 1300.67.04(e)**

(e) Implementation.

- (1) Within one year of the effective date of this section, every plan shall complete the initial enrollee assessment required by Section 1367.04 of the Act and this section. Every plan shall update its assessment of enrollee language needs and enrollee demographic profile at least once every three years following the initial assessment.
- (2) By July 1, 2008, every plan shall file, in accordance with Section 1352 of the Act, an amendment to its quality assurance program providing its written language assistance program policies and procedures, together with information and documents sufficient to demonstrate compliance with the requirements and standards of Section 1367.04 of the Act and this section. The filing shall include the plan's Section 1367.04(b)(1)(B)(v) notices. All materials filed with the Department that contain documents in non-English languages shall include the following minimum supporting documentation:
  - (i) The English version of each non-English document.
  - (ii) An attestation by the translator or, if applicable, by an authorized officer of the organization providing translator services, outlining the qualifications of the translator making the translation and affirming that the non-English translation is an accurate translation of the English version.
- (3) By January 1, 2009 every plan shall have established and implemented a language assistance program in compliance with the requirements of Section 1367.04 of the Act and this section.
- (4) Every contract between a health care provider and a plan, including a specialized plan, that is issued, amended, delivered or renewed on or after January 1, 2009, shall require compliance

with the plan's language assistance program standards developed pursuant to Section 1367.04 of the Act and this section.

(A) A plan shall retain financial responsibility for the implementation of the language assistance program required by Section 1367.04 of the Act and this section, except to the extent that delegated financial responsibility has been separately negotiated and specifically documented in written contracts. This subsection does not create an exception to Section 1367 of the Act and delegation shall not constitute a waiver of the plan's obligation to provide language assistance services required by Section 1367.04 of the Act and this section.

(B) Delegation to contracting providers of any part of the plan's obligation to provide language assistance services required by Section 1367.04 of the Act and this section constitutes a material change to a provider contract subject to the requirements of Section 1375.7 of the Act.

**28 CCR 1300.67.04(f)**

(f) The Department will periodically review plan compliance with the standards and requirements of Section 1367.04 of the Act and this section by methods that may include, but are not limited to, the medical survey process, reviews of consumer grievances and complaints to the Department's HMO Help Center, and provider complaints submitted to the Department's provider complaint line. The Department may also periodically request that plans submit information and data regarding enrollee language needs and demographic profile.

**INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED**

**Staff responsible for the activities described above, for example:**

- N/A

**DOCUMENTS TO BE REVIEWED**

- The Plan's Language Assistance Filing (due July 1, 2008), including the results of the enrollee assessment
- Samples of the Plan's provider contracts (specifically highlighting any language regarding the provision of Language Assistance services)

***LA-000 - Key Element 1:***

**THIS SECTION REQUIRED FOR THE FIRST SURVEY CONDUCTED AFTER JANUARY 1, 2009 ONLY.**

**1. The Plan has implemented a Language Assistance (LA) Program within the required timeframes.**

**CA Health and Safety Code section 1367.07; 28 CCR 1300.67.04(e)**

<b>Assessment Questions</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
1.1 Has the Plan completed its initial enrollee assessment? If yes, indicate the date completed: _____			
1.2 Has the Plan completed filing of its LA Program with the Department? If Yes, indicate date filed: _____, and the date approved/accepted: _____			
1.3 Has the Plan established and implemented a Language Assistance Program in compliance with the requirements of section 1300.67.04? If yes, indicate date: _____			
1.4 Review provider contracts between the Plan and a health care provider that have been issued, amended, delivered, or renewed on or after January 1, 2009. Has the Plan ensured that those providers are in compliance with the California Language Assistance rules and regulations?			
1.5 Has the Plan completed the one-time report on Cultural Appropriateness?			
1.6 Does the report include a collection of data regarding the enrollee population?			
1.7 Does the report include education of Plan staff who have routine contact with enrollees regarding the diverse needs of the enrollee population?			
1.8 Does the report include recruitment and retention efforts that encourage workforce diversity?			
1.9 Does the report include an evaluation of the Plan's LA Programs and services with respect to the Plan's enrollee population, using processes such as an analysis of complaints and satisfaction survey results?			
1.10 Does the report include the periodic provision of information regarding the ethnic diversity of the Plan's enrollee population and any related strategies to Plan providers?			
1.11 Does the report include the periodic provision of educational information to Plan enrollees on the Plan's LA services and Programs?			

**End of Requirement LA-000: Language Assistance Program Implementation**

**Requirement LA-001: Language Assistance Policies and Procedures**

**STATUTORY/REGULATORY CITATIONS**

**CA Health and Safety Code section 1367.04(b)**

(b) In developing the regulations, the department shall require every health care service plan and specialized health care service plan to assess the linguistic needs of the enrollee population, excluding Medi-Cal enrollees, and to provide for translation and interpretation for medical services, as indicated. A health care service plan that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its enrollee population for purposes of subparagraph (A) of paragraph (1). A health care service plan that chooses to separate its Healthy Families Program enrollment from the remainder of its enrollee population shall treat the Healthy Families Program population separately for purposes of determining whether subparagraph (A) of paragraph (1) is applicable, and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (1). The regulations shall include the following:

(1) Requirements for the translation of vital documents that include the following:

(A) A requirement that all vital documents, as defined pursuant to subparagraph (B), be translated into an indicated language, as follows:

(i) A health care service plan with an enrollment of 1,000,000 or more shall translate vital documents into the top two languages other than English as determined by the needs assessment as required by this subdivision and any additional languages when 0.75 percent or 15,000 of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(ii) A health care service plan with an enrollment of 300,000 or more but less than 1,000,000 shall translate vital documents into the top one language other than English as determined by the needs assessment as required by this subdivision and any additional languages when 1 percent or 6,000 of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(iii) A health care service plan with an enrollment of less than 300,000 shall translate vital documents into a language other than English when 3,000 or more or 5 percent of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(B) Specification of vital documents produced by the plan that are required to be translated. The specification of vital documents shall not exceed that of the Department of Health and Human Services(HHS) Office of Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

(i) Applications.

(ii) Consent forms.

(iii) Letters containing important information regarding eligibility and participation criteria.

(iv) Notices pertaining to the denial, reduction, modification, or termination of services and benefits, and the right to file a grievance or appeal.

(v) Notices advising limited-English-proficient persons of the availability of free language assistance and other outreach materials that are provided to enrollees.

(vi) Translated documents shall not include a health care service plan's explanation of benefits or similar claim processing information that is sent to enrollees, unless the document requires a response by the enrollee.

(C)(i) For those documents described in subparagraph (B) that are not standardized but contain enrollee specific information, health care service plans shall not be required to translate the documents into the threshold languages identified by the needs assessment as required by this subdivision, but rather shall include with the documents a written notice of the availability of interpretation services in the threshold languages identified by the needs assessment as required by this subdivision.

(ii) Upon request, the enrollee shall receive a written translation of the documents described in clause (i). The health care service plan shall have up to, but not to exceed, 21 days to comply with the enrollee's request for a written translation. If an enrollee requests a translated document, all timeframes and deadline requirements related to the document that apply to the health care service plan and enrollees under the provisions of this chapter and under any regulations adopted pursuant to this chapter shall begin to run upon the health care service plan's issuance of the translated document.

(iii) For grievances that require expedited plan review and response in accordance with subdivision (b) of Section 1368.01, the health care service plan may satisfy this requirement by providing notice of the availability and access to oral interpretation services.

(D) A requirement that health care service plans advise limited-English-proficient enrollees of the availability of interpreter services.

(2) Standards to ensure the quality and accuracy of the written translations and that a translated document meets the same standards required for the English language version of the document. The English language documents shall determine the rights and obligations of the parties, and the translated documents shall be admissible in evidence only if there is a dispute regarding a substantial difference in the material terms and conditions of the English language document and the translated document.

(3) Requirements for surveying the language preferences and needs assessments of health care service plan enrollees within one year of the effective date of the regulations that permit health care service plans to utilize various survey methods, including, but not limited to, the use of existing enrollment and renewal processes, subscriber newsletters, or other mailings. Health care service plans shall update the needs assessment, demographic profile, and language translation requirements every three years.

(4) Requirements for individual enrollee access to interpretation services.

(5) Standards to ensure the quality and timeliness of oral interpretation services provided by health care service plans.

#### **CA Health and Safety Code 1367.04(b)(1)(B)(v)**

(b) In developing the regulations, the department shall require every health care service plan and specialized health care service plan to assess the linguistic needs of the enrollee population, excluding Medi-Cal enrollees, and to provide for translation and interpretation for medical services, as indicated. A health care service plan that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its enrollee population for purposes of subparagraph (A) of paragraph (1). A health care service plan that chooses to separate its Healthy Families Program

enrollment from the remainder of its enrollee population shall treat the Healthy Families Program population separately for purposes of determining whether subparagraph (A) of paragraph (1) is applicable, and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (1). The regulations shall include the following:

(B) Specification of vital documents produced by the plan that are required to be translated. The specification of vital documents shall not exceed that of the Department of Health and Human Services(HHS) Office of Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

(v) Notices advising limited-English-proficient persons of the availability of free language assistance and other outreach materials that are provided to enrollees.

## **28 CCR 1300.67.04(c)(1)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(1) Enrollee Assessment. Every health care service plan and specialized health care service plan shall assess its enrollee population to develop a demographic profile and to survey the linguistic needs of individual enrollees. In assessing its enrollee population each plan shall, at a minimum:

(A) Develop a demographic profile of the plan's enrollee population for the purposes of calculating threshold languages and reporting to the Department pursuant to Section 1367.07 of the Act. All plans shall apply statistically valid methods for population analysis in developing the demographic profile and plans may utilize a variety of methods for collecting demographic data for this purpose, including census data, client utilization data from third parties, data from community agencies and third party enrollment processes;

(B) Survey its enrollees in a manner designed to identify the linguistic needs of each of the plan's enrollees, and record the information provided by a responding enrollee in the enrollee's file. Plans may utilize existing processes and methods to distribute the linguistic needs survey, including but not limited to, existing enrollment and renewal processes, subscriber newsletters, mailings and other communication processes. A plan may demonstrate compliance with the survey requirement by distributing to all subscribers, including all individual subscribers under group contracts, a disclosure explaining, in English and in the plan's threshold languages, the availability of free language assistance services and how to inform the plan and relevant providers regarding the preferred spoken and written languages of the subscriber and other enrollees under the subscriber contract; and

(C) Collect, summarize and document enrollee demographic profile data in a manner that enables the plan to maintain confidentiality of personal information and to disclose the information to the Department on request for regulatory purposes and to contracting providers on request for lawful purposes, including language assistance purposes and health care quality improvement purposes. This section is not intended to limit or expand existing law regarding confidentiality of medical records.



**28 CCR 1300.67.04(c)(3)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(3) Staff training.

Every plan shall implement a system to provide adequate training regarding the plan's language assistance program to all plan staff who have routine contact with LEP enrollees.

The training shall include instruction on:

- (A) Knowledge of the plan's policies and procedures for language assistance;
- (B) Working effectively with LEP enrollees;
- (C) Working effectively with interpreters in person and through video, telephone and other media, as may be applicable; and
- (D) Understanding the cultural diversity of the plan's enrollee population and sensitivity to cultural differences relevant to delivery of health care interpretation services.

**28 CCR 1300.67.04(c)(4)(A)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(4) Compliance Monitoring.

- (A) Every plan shall monitor its language assistance program, including delegated programs, and make modifications as necessary to ensure compliance with Section 1367.04 of the Act and this section.

**28 CCR 1300.67.04(c)(2)**

(c) Language Assistance Program Requirements.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(A) All points of contact where the need for language assistance may be reasonably anticipated.

(B) The types of resources needed to provide effective language assistance to the plan's enrollees.

(C) The plan's processes for informing enrollees of the availability of language assistance services at no charge to enrollees, and how to access language assistance services. At a minimum, these processes shall include the following:

- (i) Processes to promote effective identification of LEP enrollee language assistance needs at points of contact, to ensure that LEP enrollees are informed at points of contact that

interpretation services are available at no cost to the LEP enrollee, and to facilitate individual enrollee access to interpretation services at points of contact.

(ii) Processes for including the notice required by Section 1367.04(b)(1)(B)(v) with all vital documents, all enrollment materials and all correspondence, if any, from the plan confirming a new or renewed enrollment. If documents are distributed in an LEP enrollee's preferred written language the notice need not be included.

(iii) Processes for including statements, in English and in threshold languages, about the availability of free language assistance services and how to access them, in or with brochures, newsletters, outreach and marketing materials and other materials that are routinely disseminated to the plan's enrollees.

(D) Processes to ensure the plan's language assistance program conforms with the requirements of section 1300.68(b)(3) and (7) of these regulations, including standards to ensure that LEP enrollees receive information regarding their rights to file a grievance and seek an independent medical review in threshold languages and through oral interpretation.

(i) All plans shall ensure that grievance forms and procedures in threshold languages are made readily available to enrollees and to contracting providers for distribution to enrollees upon request.

(ii) All plans shall inform contracting providers that informational notices explaining how enrollees may contact their plan, file a complaint with their plan, obtain assistance from the Department and seek an independent medical review are available in non-English languages through the Department's web site. The notice and translations can be obtained online at [www.hmohelp.ca.gov](http://www.hmohelp.ca.gov) for downloading and printing. In addition, hard copies may be requested by submitting a written request to: Department of Managed Health Care, Attention: HMO Help Notices, 980 9th Street, Suite 500, Sacramento, CA 95814.

(E) Processes to ensure that contracting providers are informed regarding the plan's standards and mechanisms for providing language assistance services at no charge to enrollees, and to ensure that LEP language needs information collected by the plan is made available to contracting providers.

(F) Processes and standards for providing translation services, including, but not limited to:

(i) A list of the threshold languages identified by the plan;

(ii) A list of the types of standardized and enrollee-specific vital documents that must be translated and the applicable standards for making translated vital documents available to subscribers and enrollees. Plans need not translate subscriber contracts, evidences of coverage and other large disclosure forms and enrollee handbooks in their entirety, but may excerpt from large documents the disclosures specified at subsection (b)(7)(G) for translation in a format that permits cost-effective and timely production and distribution, so long as there is no loss of accuracy or meaning by doing so. A plan may demonstrate compliance regarding translation of the disclosures specified at subsection (b)(7)(G) if the plan provides a standardized matrix that lists the major categories of health care services covered under the plan's subscriber contracts, together with the corresponding co-payments and coinsurance, and exclusions and limitations, and disclosing any applicable deductibles and lifetime maximums, using the same sequence as the uniform matrix described at Section 1363(b)(1) of the Act.

(iii) A description of how the plan will provide or arrange for the provision of translation of vital documents at no charge to enrollees in accordance with the requirements of Section 1367.04 of the Act and this section. This subsection is not intended to prohibit or discourage a plan from providing translation of vital documents into a greater number of languages than the threshold languages;

- (iv) A requirement that non-English translations of vital documents must meet the same standards required for English language versions of those documents; and
- (v) A requirement that, with respect to vital documents that are not standardized, but which contain enrollee-specific information, a plan shall provide the English version together with the Department-approved written notice of the availability of interpretation and translation services and, if a translation is requested, the plan shall provide the requested translation in accordance with the requirements of Section 1367.04 of the Act and this section.
- (G) Processes and standards for providing individual enrollee access to interpretation services at points of contact at no charge, including, but not limited to:
  - (i) A list of the non-English languages likely to be encountered among the plan's enrollees.
  - (ii) A requirement that the plan shall provide LEP enrollees with interpretation services for information contained in plan-produced documents.
  - (iii) A requirement that qualified interpretation services be offered to LEP enrollees, at no cost to the enrollee, at all points of contact, including when an enrollee is accompanied by a family member or friend that can provide interpretation services. The offer of a qualified interpreter, and the enrollee's refusal if interpretation services are declined, shall be documented in the medical record or plan file, as applicable.
  - (iv) When an enrollee needs interpretation services at a point of contact that occurs in a hospital, facility or provider office subject to federal or state law that requires the hospital, facility or provider office to provide interpretation services, the plan is not relieved of its obligation to comply with the requirements of Section 1367.04 of the Act or this section. Full service plans shall have reasonable processes in place to ensure that LEP enrollees can obtain the plan's assistance in arranging for the provision of timely interpretation services at all points of contact as defined at subsection (b)(4). This subsection does not prohibit a plan from incorporating into its language assistance program a contracting hospital's language assistance program if: the hospital's language assistance program provides access to interpretation services consistent with the requirements of Section 1367.04 of the Act and this section; the plan monitors for deficiencies in delivery of interpretation services by the hospital; and the plan takes appropriate corrective action to address hospital deficiencies in delivery of interpretation services to the plan's enrollees. This subsection is not intended to limit or expand any existing state or federal law.
  - (v) A description of the arrangements the plan will make to provide or arrange for the provision of timely interpretation services at no charge to LEP enrollees at all points of contact where language assistance is needed. For purposes of this subsection "timely" means in a manner appropriate for the situation in which language assistance is needed. Interpretation services are not timely if delay results in the effective denial of the service, benefit, or right at issue. A plan's language assistance program shall specify quality assurance standards for timely delivery of language assistance services for emergency, urgent and routine health care services, and shall include standards for coordinating interpretation services with appointment scheduling.
  - (vi) The range of interpretation services that will be provided to enrollees as appropriate for the particular point of contact. The range of services may include, but is not limited to:
    - (aa) Arranging for the availability of bilingual plan or provider staff who are trained and competent in the skill of interpreting;
    - (bb) Hiring staff interpreters who are trained and competent in the skill of interpreting;
    - (cc) Contracting with an outside interpreter service for trained and competent interpreters;

(dd) Arranging formally for the services of voluntary community interpreters who are trained and competent in the skill of interpreting; and

(ee) Contracting for telephone, videoconferencing or other telecommunications supported language interpretation services.

(vii) As used in this section, “trained and competent in the skill of interpreting,” “qualified interpretation services” and “qualified interpreter” means that the interpreter meets the plan’s proficiency standards established pursuant to subsection (c)(2)(H).

(H) The plan’s policies and standards for ensuring the proficiency of the individuals providing translation and interpretation services. A plan may develop and apply appropriate criteria for ensuring the proficiency of translation and interpretation services or may adopt certification by an association acceptable to the Department at the time of certification. A plan’s language assistance proficiency standards shall require:

(i) A documented and demonstrated proficiency in both English and the other language;

(ii) A fundamental knowledge in both languages of health care terminology and concepts relevant to health care delivery systems; and

(iii) Education and training in interpreting ethics, conduct and confidentiality. The Department will accept plan standards for interpreter ethics, conduct, and confidentiality that adopt and apply, in full, the standards promulgated by the California Healthcare Interpreters Association or the National Council on Interpreting in Healthcare.

## **28 CCR 1300.67.04(c) and (d)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(1) Enrollee Assessment. Every health care service plan and specialized health care service plan shall assess its enrollee population to develop a demographic profile and to survey the linguistic needs of individual enrollees. In assessing its enrollee population each plan shall, at a minimum:

(A) Develop a demographic profile of the plan’s enrollee population for the purposes of calculating threshold languages and reporting to the Department pursuant to Section 1367.07 of the Act. All plans shall apply statistically valid methods for population analysis in developing the demographic profile and plans may utilize a variety of methods for collecting demographic data for this purpose, including census data, client utilization data from third parties, data from community agencies and third party enrollment processes;

(B) Survey its enrollees in a manner designed to identify the linguistic needs of each of the plan’s enrollees, and record the information provided by a responding enrollee in the enrollee’s file. Plans may utilize existing processes and methods to distribute the linguistic needs survey, including but not limited to, existing enrollment and renewal processes, subscriber newsletters, mailings and other communication processes. A plan may demonstrate compliance with the survey requirement by distributing to all subscribers, including all individual subscribers under group contracts, a disclosure explaining, in English and in the plan’s threshold languages, the availability of free language assistance services and how to inform the plan and relevant

providers regarding the preferred spoken and written languages of the subscriber and other enrollees under the subscriber contract; and

(C) Collect, summarize and document enrollee demographic profile data in a manner that enables the plan to maintain confidentiality of personal information and to disclose the information to the Department on request for regulatory purposes and to contracting providers on request for lawful purposes, including language assistance purposes and health care quality improvement purposes. This section is not intended to limit or expand existing law regarding confidentiality of medical records.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(A) All points of contact where the need for language assistance may be reasonably anticipated.

(B) The types of resources needed to provide effective language assistance to the plan's enrollees.

(C) The plan's processes for informing enrollees of the availability of language assistance services at no charge to enrollees, and how to access language assistance services. At a minimum, these processes shall include the following:

(i) Processes to promote effective identification of LEP enrollee language assistance needs at points of contact, to ensure that LEP enrollees are informed at points of contact that interpretation services are available at no cost to the LEP enrollee, and to facilitate individual enrollee access to interpretation services at points of contact.

(ii) Processes for including the notice required by Section 1367.04(b)(1)(B)(v) with all vital documents, all enrollment materials and all correspondence, if any, from the plan confirming a new or renewed enrollment. If documents are distributed in an LEP enrollee's preferred written language the notice need not be included.

(iii) Processes for including statements, in English and in threshold languages, about the availability of free language assistance services and how to access them, in or with brochures, newsletters, outreach and marketing materials and other materials that are routinely disseminated to the plan's enrollees.

(D) Processes to ensure the plan's language assistance program conforms with the requirements of section 1300.68(b)(3) and (7) of these regulations, including standards to ensure that LEP enrollees receive information regarding their rights to file a grievance and seek an independent medical review in threshold languages and through oral interpretation.

(i) All plans shall ensure that grievance forms and procedures in threshold languages are made readily available to enrollees and to contracting providers for distribution to enrollees upon request.

(ii) All plans shall inform contracting providers that informational notices explaining how enrollees may contact their plan, file a complaint with their plan, obtain assistance from the Department and seek an independent medical review are available in non-English languages through the Department's web site. The notice and translations can be obtained online at [www.hmohelp.ca.gov](http://www.hmohelp.ca.gov) for downloading and printing. In addition, hard copies may be requested by submitting a written request to: Department of Managed Health Care, Attention: HMO Help Notices, 980 9th Street, Suite 500, Sacramento, CA 95814.

(E) Processes to ensure that contracting providers are informed regarding the plan's standards and mechanisms for providing language assistance services at no charge to enrollees, and to

ensure that LEP language needs information collected by the plan is made available to contracting providers.

(F) Processes and standards for providing translation services, including, but not limited to:

(i) A list of the threshold languages identified by the plan;

(ii) A list of the types of standardized and enrollee-specific vital documents that must be translated and the applicable standards for making translated vital documents available to subscribers and enrollees. Plans need not translate subscriber contracts, evidences of coverage and other large disclosure forms and enrollee handbooks in their entirety, but may excerpt from large documents the disclosures specified at subsection (b)(7)(G) for translation in a format that permits cost-effective and timely production and distribution, so long as there is no loss of accuracy or meaning by doing so. A plan may demonstrate compliance regarding translation of the disclosures specified at subsection (b)(7)(G) if the plan provides a standardized matrix that lists the major categories of health care services covered under the plan's subscriber contracts, together with the corresponding co-payments and coinsurance, and exclusions and limitations, and disclosing any applicable deductibles and lifetime maximums, using the same sequence as the uniform matrix described at Section 1363(b)(1) of the Act.

(iii) A description of how the plan will provide or arrange for the provision of translation of vital documents at no charge to enrollees in accordance with the requirements of Section 1367.04 of the Act and this section. This subsection is not intended to prohibit or discourage a plan from providing translation of vital documents into a greater number of languages than the threshold languages;

(iv) A requirement that non-English translations of vital documents must meet the same standards required for English language versions of those documents; and

(v) A requirement that, with respect to vital documents that are not standardized, but which contain enrollee-specific information, a plan shall provide the English version together with the Department-approved written notice of the availability of interpretation and translation services and, if a translation is requested, the plan shall provide the requested translation in accordance with the requirements of Section 1367.04 of the Act and this section.

(G) Processes and standards for providing individual enrollee access to interpretation services at points of contact at no charge, including, but not limited to:

(i) A list of the non-English languages likely to be encountered among the plan's enrollees.

(ii) A requirement that the plan shall provide LEP enrollees with interpretation services for information contained in plan-produced documents.

(iii) A requirement that qualified interpretation services be offered to LEP enrollees, at no cost to the enrollee, at all points of contact, including when an enrollee is accompanied by a family member or friend that can provide interpretation services. The offer of a qualified interpreter, and the enrollee's refusal if interpretation services are declined, shall be documented in the medical record or plan file, as applicable.

(iv) When an enrollee needs interpretation services at a point of contact that occurs in a hospital, facility or provider office subject to federal or state law that requires the hospital, facility or provider office to provide interpretation services, the plan is not relieved of its obligation to comply with the requirements of Section 1367.04 of the Act or this section. Full service plans shall have reasonable processes in place to ensure that LEP enrollees can obtain the plan's assistance in arranging for the provision of timely interpretation services at all points of contact as defined at subsection (b)(4). This subsection does not prohibit a plan from incorporating into its language assistance program a contracting hospital's language assistance program if: the hospital's language assistance program provides access to interpretation

services consistent with the requirements of Section 1367.04 of the Act and this section; the plan monitors for deficiencies in delivery of interpretation services by the hospital; and the plan takes appropriate corrective action to address hospital deficiencies in delivery of interpretation services to the plan's enrollees. This subsection is not intended to limit or expand any existing state or federal law.

(v) A description of the arrangements the plan will make to provide or arrange for the provision of timely interpretation services at no charge to LEP enrollees at all points of contact where language assistance is needed. For purposes of this subsection "timely" means in a manner appropriate for the situation in which language assistance is needed. Interpretation services are not timely if delay results in the effective denial of the service, benefit, or right at issue. A plan's language assistance program shall specify quality assurance standards for timely delivery of language assistance services for emergency, urgent and routine health care services, and shall include standards for coordinating interpretation services with appointment scheduling.

(vi) The range of interpretation services that will be provided to enrollees as appropriate for the particular point of contact. The range of services may include, but is not limited to:

(aa) Arranging for the availability of bilingual plan or provider staff who are trained and competent in the skill of interpreting;

(bb) Hiring staff interpreters who are trained and competent in the skill of interpreting;

(cc) Contracting with an outside interpreter service for trained and competent interpreters;

(dd) Arranging formally for the services of voluntary community interpreters who are trained and competent in the skill of interpreting; and

(ee) Contracting for telephone, videoconferencing or other telecommunications supported language interpretation services.

(vii) As used in this section, "trained and competent in the skill of interpreting," "qualified interpretation services" and "qualified interpreter" means that the interpreter meets the plan's proficiency standards established pursuant to subsection (c)(2)(H).

(H) The plan's policies and standards for ensuring the proficiency of the individuals providing translation and interpretation services. A plan may develop and apply appropriate criteria for ensuring the proficiency of translation and interpretation services or may adopt certification by an association acceptable to the Department at the time of certification. A plan's language assistance proficiency standards shall require:

(i) A documented and demonstrated proficiency in both English and the other language;

(ii) A fundamental knowledge in both languages of health care terminology and concepts relevant to health care delivery systems; and

(iii) Education and training in interpreting ethics, conduct and confidentiality. The Department will accept plan standards for interpreter ethics, conduct, and confidentiality that adopt and apply, in full, the standards promulgated by the California Healthcare Interpreters Association or the National Council on Interpreting in Healthcare.

(3) Staff training.

Every plan shall implement a system to provide adequate training regarding the plan's language assistance program to all plan staff who have routine contact with LEP enrollees. The training shall include instruction on:

(A) Knowledge of the plan's policies and procedures for language assistance;

(B) Working effectively with LEP enrollees;

(C) Working effectively with interpreters in person and through video, telephone and other media, as may be applicable; and

(D) Understanding the cultural diversity of the plan's enrollee population and sensitivity to cultural differences relevant to delivery of health care interpretation services.

(4) Compliance Monitoring.

(A) Every plan shall monitor its language assistance program, including delegated programs, and make modifications as necessary to ensure compliance with Section 1367.04 of the Act and this section.

(d) In reviewing a plan's proposed language assistance program, the Department will evaluate the totality of the plan's language assistance program to determine whether the program as a whole provides meaningful access for LEP enrollees, and may consider relevant operational and demographic factors, including but not limited to:

(1) Whether the plan is a full service plan or specialized health care service plan;

(2) The nature of the points of contact;

(3) The frequency with which particular languages are encountered;

(4) The type of provider network and methods of health care service delivery;

(5) The variations and character of a plan's service area;

(6) The availability of translation and interpretation services and professionals;

(7) The variations in cost of language assistance services and the impact on affordability of health care coverage; and

(8) A plan's implementation of best practices and utilization of existing and emerging technologies to increase access to language assistance services, such as video interpreting programs, language translation software, collaborating with other plans to share a pool of interpreters, and other methods and technologies.

(9) Specialized dental, vision, chiropractic, acupuncture and employee assistance program plans that demonstrate adequate availability and accessibility of qualified bilingual contracted providers and office staff to provide meaningful access to LEP enrollees, will be in compliance with the requirements of subsection (c)(2)(G)(iii) and (v). For the purposes of this subsection, specialized dental, vision, chiropractic, acupuncture and employee assistance program plans may demonstrate adequate availability and accessibility of competent and qualified bilingual providers and office staff if:

A) The plan identifies within its provider directories those contracting providers who are themselves bilingual or who employ other bilingual providers and/or office staff, based on language capability disclosure forms signed by the bilingual providers and/or office staff, attesting to their fluency in languages other than English;

B) The plan requires all contracting providers to provide quarterly updates regarding any changes in the language capabilities of currently employed providers and/or office staff by submitting new language capability disclosure forms, and the plan updates its provider directories accordingly, and consistent with Section 1367.26 of the Act; and

C) The plan's quality assurance audits of contracting providers confirm and document the accuracy of provider language capability disclosure forms and attestations.

## **28 CCR 1300.67.04(e)(1)**

(e) Implementation.

(1) Within one year of the effective date of this section, every plan shall complete the initial enrollee assessment required by Section 1367.04 of the Act and this section. Every plan shall update its assessment of enrollee language needs and enrollee demographic profile at least once every three years following the initial assessment.



### INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED

**Staff responsible for the activities described above, for example:**

- Director of Quality Management Program and/or the Executive with overall responsibility for the Plan's LA Program
- Director of Operations
- Manager of Member/Customer Services
- Director of Provider Networks or Contracting

### DOCUMENTS TO BE REVIEWED

- The Plan's Language Assistance (LA) Program and/or LA policies and procedures, including:
  - Enrollee Assessment
  - Language Assistance Services (including translation and interpretation)
  - Language Assistance staff training
  - Language Assistance Program compliance monitoring
  - The Plan's definition of (or policies and procedures regarding) "all points of contact" where the need for Language Assistance may be reasonably anticipated
  - The Plan's definition of (or policies and procedures regarding) the "types of resources" needed to provide effective Language Assistance services to enrollees
  - The Plan's policies and procedures for informing enrollees of the availability of Language Assistance services
  - The Plan's grievance policies and procedures related to Language Assistance services
  - The Plan's policies and procedures for ensuring contracting providers are informed of the Language Assistance Program and services
  - The Plan's policies and procedures for ensuring the proficiency of individuals providing interpretation and translation services
- The job description of the individual(s) or committee(s) with overall responsibility for the Language Assistance (LA) Program

### LA-001 - Key Element 1:

- 1. The Plan has a written description of or policies and procedures describing the Language Assistance Program.**  
**28 CCR 1300.67.04(c) and (d)**

Assessment Questions	Yes	No	N/A
1.1 Does the scope of the LA Program address standards for <i>enrollee assessment</i> ?			
1.2 Does the scope of the LA Program address standards for <i>language assistance services</i> ?			

Assessment Questions	Yes	No	N/A
1.3 Does the scope of the LA Program address standards for language assistance <i>staff training</i> ?			
1.4 Does the scope of the LA Program address standards for Language Assistance Program <i>compliance monitoring</i> ?			

**LA-001 - Key Element 2:**

- 2. The Plan has established and implemented Language Assistance policies and procedures that address standards for enrollee assessment.**  
CA Health and Safety Code section 1367.04(b); 28 CCR 1300.67.04(c)(1); 28 CCR 1300.67.04(e)(1)

Assessment Questions	Yes	No	N/A
2.1 Does the Plan have policies and procedures (or other documentation) that define the process for developing a demographic profile?			
2.2 Do the policies define how the Plan will apply statistically valid methods for population analysis?			
2.3 Do the policies define how demographic data will be collected?			
2.4 Do the policies state that the Plan will update its demographic profile at least once every three years?			
2.5 Does the Plan have policies and procedures (or other documentation) that define the process for identifying (surveying) the linguistic needs of each enrollee?			
2.6 Do the policies define how the information regarding linguistic needs will be recorded in the enrollee's file?			
2.7 Does the Plan have policies and procedures (or other documentation) that defines how the Plan maintains confidentiality of demographic profile information related to LA services?			
2.8 Do the policies allow for disclosure of the information to the Department upon request for regulatory purposes?			
2.9 Do the policies allow for disclosure of the information to contracting providers upon request for lawful purposes?			

**LA-001 - Key Element 3:**

- 3. The Plan has established and implemented Language Assistance policies and procedures that address standards for providing Language Assistance services.**  
CA Health and Safety Code section 1367.04(b)(1)(B)(v); 28 CCR 1300.67.04(c)(2)

Assessment Questions	Yes	No	N/A
3.1 Does the Plan have policies and procedures to ensure access to interpretation services at no cost to the enrollee?			
3.2 Does the Plan have policies and procedures (or other documentation) that define all points of contact where the need for Language Assistance may be reasonably anticipated?			

Assessment Questions	Yes	No	N/A
3.3 Does the Plan have policies and procedures (or other documentation) that define the resources needed to provide effective Language Assistance to the Plan's enrollees?			
3.4 Does the Plan have policies and processes for including a notice, with English vital documents, informing enrollees of the availability of Language Assistance services?			
3.5 Do the policies require that the notice is included with non-standardized documents that contain enrollee-specific information that are sent in English?			
3.6 Do the policies require that the notice is included with all vital documents and enrollment materials and correspondence confirming a new or renewed enrollment?			
3.7 Do the policies provide for including statements, in English and in threshold languages, about free LA services in brochures, newsletters, and other materials routinely disseminated to enrollees?			
3.8 Does the Plan have policies and procedures for providing written translation of non-standardized documents that contain enrollee-specific information (into threshold languages) if requested by the enrollee?			
3.9 Does the Plan have policies and procedures (or other documentation) that ensure that grievance forms and procedures – in threshold languages – are made available to <i>enrollees</i> ?			
3.10 Does the Plan have policies and procedures (or other documentation) that ensure that grievance forms and procedures – in threshold languages – are made available to <i>contracted providers</i> ?			
3.11 Does the Plan have policies and procedures (or other documentation) that define how <i>translation</i> services are provided to enrollees? (Including how to request services, access services, etc.)			
3.12 Does the Plan have policies and procedures (or other documentation) that define how interpretation services are provided to enrollees? (Including how to request services, access services, etc.)			
3.13 Do the Plan's policies address enrollees using family members or friends as interpreters instead of Plan provided interpreter services?			
3.14 Does the Plan have a policy requiring that refusal of interpreter services is documented in the enrollee's file?( <b>NOT REQUIRED FOR SPECIALIZED PLANS</b> )			

**LA-001 - Key Element 4:**

**4. The Plan has established and implemented Language Assistance policies and procedures that address standards for staff training.**  
**28 CCR 1300.67.04(c)(3)**

Assessment Question	Yes	No	N/A
4.1 Does the Plan have policies and procedures (or other documentation) that ensures that all Plan staff who have routine contact with enrollees receive training regarding the Plan's LA Program?			

**LA-001 - Key Element 5:**

**5. The Plan has established and implemented Language Assistance policies and procedures that address standards for compliance monitoring.  
28 CCR 1300.67.04(c)(4)**

Assessment Questions	Yes	No	N/A
5.1 Does the Plan have policies and procedures (or other documentation) that define how the Plan monitors its Language Assistance Program?			
5.2 Does the monitoring program include the following key area: <i>interpretation</i> services, access and availability?			
5.3 Does the monitoring program include the following key area: <i>translation</i> services, access and availability?			
5.4 Does the monitoring program include the following key area: <i>Staff training</i> ?			
5.5 Does the monitoring program include the following key area: <i>Enrollee assessment</i> ?			
5.6 Does the Plan's monitoring program require <i>on-going and periodic review</i> of monitoring activity results?			
5.7 Does the Plan's monitoring program <i>include internal audits and performance improvement initiatives</i> ?			
5.8 Does the Plan's monitoring program cover <i>all impacted Plan departments and services</i> ?			
5.9 Does the monitoring program <i>define the process for developing corrective actions</i> ? (Including identifying, evaluating, and implementing any necessary modifications to ensure compliance.)			
5.10 Does the Plan's monitoring program include <i>conducting follow-up and reporting on corrective actions</i> ?			

**End of Requirement LA-001: Language Assistance Policies and Procedures**

## **Requirement LA-002: Enrollee Assessment**

### **STATUTORY/REGULATORY CITATIONS**

#### **CA Health and Safety Code section 1367.04(b)**

(b) In developing the regulations, the department shall require every health care service plan and specialized health care service plan to assess the linguistic needs of the enrollee population, excluding Medi-Cal enrollees, and to provide for translation and interpretation for medical services, as indicated. A health care service plan that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its enrollee population for purposes of subparagraph (A) of paragraph (1). A health care service plan that chooses to separate its Healthy Families Program enrollment from the remainder of its enrollee population shall treat the Healthy Families Program population separately for purposes of determining whether subparagraph (A) of paragraph (1) is applicable, and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (1). The regulations shall include the following:

(1) Requirements for the translation of vital documents that include the following:

(A) A requirement that all vital documents, as defined pursuant to subparagraph (B), be translated into an indicated language, as follows:

(i) A health care service plan with an enrollment of 1,000,000 or more shall translate vital documents into the top two languages other than English as determined by the needs assessment as required by this subdivision and any additional languages when 0.75 percent or 15,000 of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(ii) A health care service plan with an enrollment of 300,000 or more but less than 1,000,000 shall translate vital documents into the top one language other than English as determined by the needs assessment as required by this subdivision and any additional languages when 1 percent or 6,000 of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(iii) A health care service plan with an enrollment of less than 300,000 shall translate vital documents into a language other than English when 3,000 or more or 5 percent of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(B) Specification of vital documents produced by the plan that are required to be translated. The specification of vital documents shall not exceed that of the Department of Health and Human Services(HHS) Office of Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

(i) Applications.

(ii) Consent forms.

(iii) Letters containing important information regarding eligibility and participation criteria.

(iv) Notices pertaining to the denial, reduction, modification, or termination of services and benefits, and the right to file a grievance or appeal.

(v) Notices advising limited-English-proficient persons of the availability of free language assistance and other outreach materials that are provided to enrollees.

(vi) Translated documents shall not include a health care service plan's explanation of benefits or similar claim processing information that is sent to enrollees, unless the document requires a response by the enrollee.

(C)(i) For those documents described in subparagraph (B) that are not standardized but contain enrollee specific information, health care service plans shall not be required to translate the documents into the threshold languages identified by the needs assessment as required by this subdivision, but rather shall include with the documents a written notice of the availability of interpretation services in the threshold languages identified by the needs assessment as required by this subdivision.

(ii) Upon request, the enrollee shall receive a written translation of the documents described in clause (i). The health care service plan shall have up to, but not to exceed, 21 days to comply with the enrollee's request for a written translation. If an enrollee requests a translated document, all timeframes and deadline requirements related to the document that apply to the health care service plan and enrollees under the provisions of this chapter and under any regulations adopted pursuant to this chapter shall begin to run upon the health care service plan's issuance of the translated document.

(iii) For grievances that require expedited plan review and response in accordance with subdivision (b) of Section 1368.01, the health care service plan may satisfy this requirement by providing notice of the availability and access to oral interpretation services.

(D) A requirement that health care service plans advise limited-English-proficient enrollees of the availability of interpreter services.

(2) Standards to ensure the quality and accuracy of the written translations and that a translated document meets the same standards required for the English language version of the document. The English language documents shall determine the rights and obligations of the parties, and the translated documents shall be admissible in evidence only if there is a dispute regarding a substantial difference in the material terms and conditions of the English language document and the translated document.

(3) Requirements for surveying the language preferences and needs assessments of health care service plan enrollees within one year of the effective date of the regulations that permit health care service plans to utilize various survey methods, including, but not limited to, the use of existing enrollment and renewal processes, subscriber newsletters, or other mailings. Health care service plans shall update the needs assessment, demographic profile, and language translation requirements every three years.

(4) Requirements for individual enrollee access to interpretation services.

(5) Standards to ensure the quality and timeliness of oral interpretation services provided by health care service plans.

#### **CA Health and Safety Code section 1367.04(b) and (f)**

(b) In developing the regulations, the department shall require every health care service plan and specialized health care service plan to assess the linguistic needs of the enrollee population, excluding Medi-Cal enrollees, and to provide for translation and interpretation for medical services, as indicated. A health care service plan that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its enrollee population for purposes of subparagraph (A) of paragraph (1). A health care service plan that chooses to separate its Healthy Families Program

enrollment from the remainder of its enrollee population shall treat the Healthy Families Program population separately for purposes of determining whether subparagraph (A) of paragraph (1) is applicable, and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (1). The regulations shall include the following:

(1) Requirements for the translation of vital documents that include the following:

(A) A requirement that all vital documents, as defined pursuant to subparagraph (B), be translated into an indicated language, as follows:

(i) A health care service plan with an enrollment of 1,000,000 or more shall translate vital documents into the top two languages other than English as determined by the needs assessment as required by this subdivision and any additional languages when 0.75 percent or 15,000 of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(ii) A health care service plan with an enrollment of 300,000 or more but less than 1,000,000 shall translate vital documents into the top one language other than English as determined by the needs assessment as required by this subdivision and any additional languages when 1 percent or 6,000 of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(iii) A health care service plan with an enrollment of less than 300,000 shall translate vital documents into a language other than English when 3,000 or more or 5 percent of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(B) Specification of vital documents produced by the plan that are required to be translated. The specification of vital documents shall not exceed that of the Department of Health and Human Services(HHS) Office of Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

(i) Applications.

(ii) Consent forms.

(iii) Letters containing important information regarding eligibility and participation criteria.

(iv) Notices pertaining to the denial, reduction, modification, or termination of services and benefits, and the right to file a grievance or appeal.

(v) Notices advising limited-English-proficient persons of the availability of free language assistance and other outreach materials that are provided to enrollees.

(vi) Translated documents shall not include a health care service plan's explanation of benefits or similar claim processing information that is sent to enrollees, unless the document requires a response by the enrollee.

(C)(i) For those documents described in subparagraph (B) that are not standardized but contain enrollee specific information, health care service plans shall not be required to translate the documents into the threshold languages identified by the needs assessment as required by this subdivision, but rather shall include with the documents a written notice of the availability of interpretation services in the threshold languages identified by the needs assessment as required by this subdivision.

(ii) Upon request, the enrollee shall receive a written translation of the documents described in clause (i). The health care service plan shall have up to, but not to exceed, 21 days to comply

with the enrollee's request for a written translation. If an enrollee requests a translated document, all timeframes and deadline requirements related to the document that apply to the health care service plan and enrollees under the provisions of this chapter and under any regulations adopted pursuant to this chapter shall begin to run upon the health care service plan's issuance of the translated document.

(iii) For grievances that require expedited plan review and response in accordance with subdivision (b) of Section 1368.01, the health care service plan may satisfy this requirement by providing notice of the availability and access to oral interpretation services.

(D) A requirement that health care service plans advise limited-English-proficient enrollees of the availability of interpreter services.

(2) Standards to ensure the quality and accuracy of the written translations and that a translated document meets the same standards required for the English language version of the document. The English language documents shall determine the rights and obligations of the parties, and the translated documents shall be admissible in evidence only if there is a dispute regarding a substantial difference in the material terms and conditions of the English language document and the translated document.

(3) Requirements for surveying the language preferences and needs assessments of health care service plan enrollees within one year of the effective date of the regulations that permit health care service plans to utilize various survey methods, including, but not limited to, the use of existing enrollment and renewal processes, subscriber newsletters, or other mailings. Health care service plans shall update the needs assessment, demographic profile, and language translation requirements every three years.

(4) Requirements for individual enrollee access to interpretation services.

(5) Standards to ensure the quality and timeliness of oral interpretation services provided by health care service plans.

(f) A contract between a health care service plan and a health care provider shall require compliance with the standards developed under this section. In furtherance of this section, the contract shall require providers to cooperate with the plan by providing any information necessary to assess compliance.

## **28 CCR 1300.67.04(b)(7)**

(b) Definitions.

(7) Vital Documents: the following documents, when produced by the plan (plan-produced documents) including when the production or distribution is delegated by a plan to a contracting health care service provider or administrative services provider:

(A) Applications;

(B) Consent forms, including any form by which an enrollee authorizes or consents to any action by the plan;

(C) Letters containing important information regarding eligibility and participation criteria;

(D) Notices pertaining to the denial, reduction, modification, or termination of services and benefits, and the right to file a grievance or appeal;

(E) Notices advising LEP enrollees of the availability of free language assistance and other outreach materials that are provided to enrollees;

(F) A plan's explanation of benefits or similar claim processing information that is sent to an enrollee if the document requires a response from the enrollee; and

(G) Subject to subsection (c)(2)(F)(ii), the enrollee disclosures required by Section 1363(a)(1), (2) and (4) of the Act.



**28 CCR 1300.67.04(b)(1)**

(b) Definitions.

(1) Demographic profile means, at a minimum, identification of an enrollee's preferred spoken and written language, race and ethnicity.

**28 CCR 1300.67.04(c)(1)(A)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(1) Enrollee Assessment. Every health care service plan and specialized health care service plan shall assess its enrollee population to develop a demographic profile and to survey the linguistic needs of individual enrollees. In assessing its enrollee population each plan shall, at a minimum:

(A) Develop a demographic profile of the plan's enrollee population for the purposes of calculating threshold languages and reporting to the Department pursuant to Section 1367.07 of the Act. All plans shall apply statistically valid methods for population analysis in developing the demographic profile and plans may utilize a variety of methods for collecting demographic data for this purpose, including census data, client utilization data from third parties, data from community agencies and third party enrollment processes;

**28 CCR 1300.67.04(c)(1)(B)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(1) Enrollee Assessment. Every health care service plan and specialized health care service plan shall assess its enrollee population to develop a demographic profile and to survey the linguistic needs of individual enrollees. In assessing its enrollee population each plan shall, at a minimum:

(B) Survey its enrollees in a manner designed to identify the linguistic needs of each of the plan's enrollees, and record the information provided by a responding enrollee in the enrollee's file. Plans may utilize existing processes and methods to distribute the linguistic needs survey, including but not limited to, existing enrollment and renewal processes, subscriber newsletters, mailings and other communication processes. A plan may demonstrate compliance with the survey requirement by distributing to all subscribers, including all individual subscribers under group contracts, a disclosure explaining, in English and in the plan's threshold languages, the availability of free language assistance services and how to inform the plan and relevant providers regarding the preferred spoken and written languages of the subscriber and other enrollees under the subscriber contract; and

**28 CCR 1300.67.04(c)(1)(C)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(1) Enrollee Assessment. Every health care service plan and specialized health care service plan shall assess its enrollee population to develop a demographic profile and to survey the linguistic needs of individual enrollees. In assessing its enrollee population each plan shall, at a minimum:

(C) Collect, summarize and document enrollee demographic profile data in a manner that enables the plan to maintain confidentiality of personal information and to disclose the information to the Department on request for regulatory purposes and to contracting providers on request for lawful purposes, including language assistance purposes and health care quality improvement purposes. This section is not intended to limit or expand existing law regarding confidentiality of medical records.

**28 CCR 1300.67.04(c)(2)(F)(ii)**

(c) Language Assistance Program Requirements.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(F) Processes and standards for providing translation services, including, but not limited to:

(ii) A list of the types of standardized and enrollee-specific vital documents that must be translated and the applicable standards for making translated vital documents available to subscribers and enrollees. Plans need not translate subscriber contracts, evidences of coverage and other large disclosure forms and enrollee handbooks in their entirety, but may excerpt from large documents the disclosures specified at subsection (b)(7)(G) for translation in a format that permits cost-effective and timely production and distribution, so long as there is no loss of accuracy or meaning by doing so. A plan may demonstrate compliance regarding translation of the disclosures specified at subsection (b)(7)(G) if the plan provides a standardized matrix that lists the major categories of health care services covered under the plan's subscriber contracts, together with the corresponding co-payments and coinsurance, and exclusions and limitations, and disclosing any applicable deductibles and lifetime maximums, using the same sequence as the uniform matrix described at Section 1363(b)(1) of the Act.

**28 CCR 1300.67.04(c)(2)(G)(i)**

(c) Language Assistance Program Requirements.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(G) Processes and standards for providing individual enrollee access to interpretation services at points of contact at no charge, including, but not limited to:

(i) A list of the non-English languages likely to be encountered among the plan's enrollees.

**28 CCR 1300.67.04(e)(1)**

(e) Implementation.

(1) Within one year of the effective date of this section, every plan shall complete the initial enrollee assessment required by Section 1367.04 of the Act and this section. Every plan shall update its assessment of enrollee language needs and enrollee demographic profile at least once every three years following the initial assessment.

**INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED**

**Staff responsible for the activities described above, for example:**

- Director of Quality Management or Executive with overall responsibility for the Plan's LA Program

**DOCUMENTS TO BE REVIEWED**

- Policies and procedures relating to the enrollee assessment and survey processes
- Data sources for completing the demographic profile
- The Plan's demographic profile (report or other documentation)
- Evidence of statistical analysis of the demographic data
- Enrollee linguistic needs survey
- Disclosure or notice to enrollees regarding the availability of LA services
- Translated vital documents, including:
  - Applications
  - Consent forms
  - Letters to enrollees regarding eligibility and participation criteria
  - Notices pertaining to denial, reduction, modification, or termination of services and benefits and the right to file a grievance or appeal
  - Notices advising LEP enrollees of the availability of free LA services and other outreach materials provided to enrollees

**LA-002 - Key Element 1:**

**1. The Plan demonstrates that it has assessed the linguistic needs of its enrollee population by developing a demographic profile.**

**CA Health and Safety Code section 1367.04(b); 28 CCR 1300.67.04(c)(1)(A); 28 CCR 1300.67.04(c)(2)(G)(i); 28 CCR 1300.67.04(e)(1)**

Assessment Questions	Yes	No	N/A
1.1 Did the Plan develop a demographic profile of the enrollee population? If yes, indicate date: _____			
1.2 When developing the demographic profile, did the Plan utilize reasonable methods of collecting the data?			

Assessment Questions	Yes	No	N/A
1.3 Does the Plan demonstrate that statistically valid methods for population analysis were applied in developing the demographic profile?			
1.4 Has the Plan defined the process for updating the demographic profile data at least every three years?			
1.5 Has the Plan defined a list of the non-English languages likely to be encountered among the Plan's enrollees?			

**LA-002 - Key Element 2:**

- 2. The Plan has identified and translated vital documents into threshold languages as required.**  
**CA Health and Safety Code section 1367.04(b)(7); 28 CCR 1300.67.04(c)(1)(A); 28 CCR 1300.67.04(c)(2)(F)(ii)**

Assessment Questions	Yes	No	N/A
2.1 Has the Plan, based on the enrollee assessment, identified the appropriate number of threshold languages?			
2.2 Has the Plan specified the standardized vital documents that must be translated? (And does the list meet statutory requirements?)			
2.3 Has the Plan translated the specified standardized vital documents into threshold languages?			

**LA-002 - Key Element 3:**

- 3. The Plan demonstrates that it has assessed the linguistic needs of each of the Plan's enrollees by surveying enrollees and/or distributing a disclosure.**  
**CA Health and Safety Code section 1367.04(b) and (f); 28 CCR 1300.67.04(c)(1)(B)**

Assessment Questions	Yes	No	N/A
3.1 Has the Plan surveyed enrollees in order to determine the linguistic needs of <u>each</u> enrollee?			
3.2 If yes, were the surveys addressed to each subscriber?			
3.3 <b>If the Plan did <u>not</u> survey enrollees</b> , has the Plan distributed a disclosure or notice (to all subscribers) regarding the availability of free language assistance services?			
3.4 Is the notice in English and the Plan's threshold languages?			
3.5 Does the notice state that the Language Assistance services were free?			

**LA-002 - Key Element 4:**

- 4. The Plan maintains confidentiality of personal information and limits disclosure of such information.**  
**28 CCR 1300.67.04(b)(1); 28 CCR 1300.67.04(c)(1)(C)**

Assessment Questions		Yes	No	N/A
4.1	When collecting, summarizing and documenting enrollee data, does the Plan maintain confidentiality of personal information?			
4.2	Does the Plan capture race and ethnicity data in addition to language preference data?			
4.3	Does the Plan allow for disclosure of demographic profile data to <i>the Department</i> (upon request) for regulatory purposes?			
4.4	Does the Plan allow for disclosure of demographic profile data to <i>contracting providers</i> (upon request) for lawful purposes?			

**End of Requirement LA-002: Enrollee Assessment**

## **Requirement LA-003: Language Assistance Services**

### **STATUTORY/REGULATORY CITATIONS**

#### **CA Health and Safety Code section 1363(b)(1)**

(b)(1) As of July 1, 1999, the director shall require each plan offering a contract to an individual or small group to provide with the disclosure form for individual and small group plan contracts a uniform health plan benefits and coverage matrix containing the plan's major provisions in order to facilitate comparisons between plan contracts. The uniform matrix shall include the following category descriptions together with the corresponding co payments and limitations in the following sequence:

- (A) Deductibles.
- (B) Lifetime maximums.
- (C) Professional services.
- (D) Outpatient services.
- (E) Hospitalization services.
- (F) Emergency health coverage.
- (G) Ambulance services.
- (H) Prescription drug coverage.
- (I) Durable medical equipment.
- (J) Mental health services.
- (K) Chemical dependency services.
- (L) Home health services.
- (M) Other.

(2) The following statement shall be placed at the top of the matrix in all capital letters in at least 10-point boldface type:

**THIS MATRIX IS INTENDED TO BE USED TO HELP YOU COMPARE COVERAGE BENEFITS AND IS A SUMMARY ONLY. THE EVIDENCE OF COVERAGE AND PLAN CONTRACT SHOULD BE CONSULTED FOR A DETAILED DESCRIPTION OF COVERAGE BENEFITS AND LIMITATIONS.**

#### **CA Health and Safety Code section 1367.04(b)(1)(B)(iii)**

(b) In developing the regulations, the department shall require every health care service plan and specialized health care service plan to assess the linguistic needs of the enrollee population, excluding Medi-Cal enrollees, and to provide for translation and interpretation for medical services, as indicated. A health care service plan that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its enrollee population for purposes of subparagraph (A) of paragraph (1). A health care service plan that chooses to separate its Healthy Families Program enrollment from the remainder of its enrollee population shall treat the Healthy Families Program population separately for purposes of determining whether subparagraph (A) of paragraph (1) is applicable, and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (1). The regulations shall include the following:

- (1) Requirements for the translation of vital documents that include the following:

(B) Specification of vital documents produced by the plan that are required to be translated. The specification of vital documents shall not exceed that of the Department of Health and Human Services(HHS) Office of Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

(iii) Letters containing important information regarding eligibility and participation criteria

**CA Health and Safety Code section 1367.04(b)(1)(B)(v)**

(b) In developing the regulations, the department shall require every health care service plan and specialized health care service plan to assess the linguistic needs of the enrollee population, excluding Medi-Cal enrollees, and to provide for translation and interpretation for medical services, as indicated. A health care service plan that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its enrollee population for purposes of subparagraph (A) of paragraph (1). A health care service plan that chooses to separate its Healthy Families Program enrollment from the remainder of its enrollee population shall treat the Healthy Families Program population separately for purposes of determining whether subparagraph (A) of paragraph (1) is applicable, and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (1). The regulations shall include the following:

(1) Requirements for the translation of vital documents that include the following:

(B) Specification of vital documents produced by the plan that are required to be translated. The specification of vital documents shall not exceed that of the Department of Health and Human Services(HHS) Office of Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

(v) Notices advising limited-English-proficient persons of the availability of free language assistance and other outreach materials that are provided to enrollees.

**CA Health and Safety Code section 1367.04(b)(1)(C)**

(b) In developing the regulations, the department shall require every health care service plan and specialized health care service plan to assess the linguistic needs of the enrollee population, excluding Medi-Cal enrollees, and to provide for translation and interpretation for medical services, as indicated. A health care service plan that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its enrollee population for purposes of subparagraph (A) of paragraph (1). A health care service plan that chooses to separate its Healthy Families Program enrollment from the remainder of its enrollee population shall treat the Healthy Families Program population separately for purposes of determining whether subparagraph (A) of paragraph (1) is applicable, and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (1). The regulations shall include the following:

(C)(i) For those documents described in subparagraph (B) that are not standardized but contain enrollee specific information, health care service plans shall not be required to translate the documents into the threshold languages identified by the needs assessment as required by this subdivision, but rather shall include with the documents a written notice of the availability of interpretation services in the threshold languages identified by the needs assessment as required by this subdivision.

(ii) Upon request, the enrollee shall receive a written translation of the documents described in clause (i). The health care service plan shall have up to, but not to exceed, 21 days to comply with the enrollee's request for a written translation. If an enrollee requests a translated document, all timeframes and deadline requirements related to the document that apply to the health care service plan and enrollees under the provisions of this chapter and under any regulations adopted pursuant to this chapter shall begin to run upon the health care service plan's issuance of the translated document.

(iii) For grievances that require expedited plan review and response in accordance with subdivision (b) of Section 1368.01, the health care service plan may satisfy this requirement by providing notice of the availability and access to oral interpretation services.

### **CA Health and Safety Code section 1367.04(b)(2) and (5)**

(b) In developing the regulations, the department shall require every health care service plan and specialized health care service plan to assess the linguistic needs of the enrollee population, excluding Medi-Cal enrollees, and to provide for translation and interpretation for medical services, as indicated. A health care service plan that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its enrollee population for purposes of subparagraph (A) of paragraph (1). A health care service plan that chooses to separate its Healthy Families Program enrollment from the remainder of its enrollee population shall treat the Healthy Families Program population separately for purposes of determining whether subparagraph (A) of paragraph (1) is applicable, and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (1). The regulations shall include the following:

(2) Standards to ensure the quality and accuracy of the written translations and that a translated document meets the same standards required for the English language version of the document. The English language documents shall determine the rights and obligations of the parties, and the translated documents shall be admissible in evidence only if there is a dispute regarding a substantial difference in the material terms and conditions of the English language document and the translated document.

(5) Standards to ensure the quality and timeliness of oral interpretation services provided by health care service plans.

### **28 CCR 1300.67.04(c)(2)(C)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(C) The plan's processes for informing enrollees of the availability of language assistance services at no charge to enrollees, and how to access language assistance services. At a minimum, these processes shall include the following:



- (i) Processes to promote effective identification of LEP enrollee language assistance needs at points of contact, to ensure that LEP enrollees are informed at points of contact that interpretation services are available at no cost to the LEP enrollee, and to facilitate individual enrollee access to interpretation services at points of contact.
- (ii) Processes for including the notice required by Section 1367.04(b)(1)(B)(v) with all vital documents, all enrollment materials and all correspondence, if any, from the plan confirming a new or renewed enrollment. If documents are distributed in an LEP enrollee's preferred written language the notice need not be included.
- (iii) Processes for including statements, in English and in threshold languages, about the availability of free language assistance services and how to access them, in or with brochures, newsletters, outreach and marketing materials and other materials that are routinely disseminated to the plan's enrollees.

#### **28 CCR 1300.67.04(c)(2)(D)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(D) Processes to ensure the plan's language assistance program conforms with the requirements of section 1300.68(b)(3) and (7) of these regulations, including standards to ensure that LEP enrollees receive information regarding their rights to file a grievance and seek an independent medical review in threshold languages and through oral interpretation.

(i) All plans shall ensure that grievance forms and procedures in threshold languages are made readily available to enrollees and to contracting providers for distribution to enrollees upon request.

(ii) All plans shall inform contracting providers that informational notices explaining how enrollees may contact their plan, file a complaint with their plan, obtain assistance from the Department and seek an independent medical review are available in non-English languages through the Department's web site. The notice and translations can be obtained online at [www.hmohelp.ca.gov](http://www.hmohelp.ca.gov) for downloading and printing. In addition, hard copies may be requested by submitting a written request to: Department of Managed Health Care, Attention: HMO Help Notices, 980 9th Street, Suite 500, Sacramento, CA 95814.

#### **28 CCR 1300.67.04(c)(2)(G)(vii)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(G) Processes and standards for providing individual enrollee access to interpretation services at points of contact at no charge, including, but not limited to:

(vii) As used in this section, “trained and competent in the skill of interpreting,” “qualified interpretation services” and “qualified interpreter” means that the interpreter meets the plan’s proficiency standards established pursuant to subsection (c)(2)(H).

#### **28 CCR 1300.67.04(c)(2)(C)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(C) The plan’s processes for informing enrollees of the availability of language assistance services at no charge to enrollees, and how to access language assistance services. At a minimum, these processes shall include the following:

(i) Processes to promote effective identification of LEP enrollee language assistance needs at points of contact, to ensure that LEP enrollees are informed at points of contact that interpretation services are available at no cost to the LEP enrollee, and to facilitate individual enrollee access to interpretation services at points of contact.

(ii) Processes for including the notice required by Section 1367.04(b)(1)(B)(v) with all vital documents, all enrollment materials and all correspondence, if any, from the plan confirming a new or renewed enrollment. If documents are distributed in an LEP enrollee’s preferred written language the notice need not be included.

(iii) Processes for including statements, in English and in threshold languages, about the availability of free language assistance services and how to access them, in or with brochures, newsletters, outreach and marketing materials and other materials that are routinely disseminated to the plan’s enrollees.

#### **28 CCR 1300.67.04(c)(2)(F)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

- (F) Processes and standards for providing translation services, including, but not limited to:
- (i) A list of the threshold languages identified by the plan;
  - (ii) A list of the types of standardized and enrollee-specific vital documents that must be translated and the applicable standards for making translated vital documents available to subscribers and enrollees. Plans need not translate subscriber contracts, evidences of coverage and other large disclosure forms and enrollee handbooks in their entirety, but may excerpt from large documents the disclosures specified at subsection (b)(7)(G) for translation in a format that permits cost-effective and timely production and distribution, so long as there is no loss of accuracy or meaning by doing so. A plan may demonstrate compliance regarding translation of the disclosures specified at subsection (b)(7)(G) if the plan provides a standardized matrix that lists the major categories of health care services covered under the plan's subscriber contracts, together with the corresponding co-payments and coinsurance, and exclusions and limitations, and disclosing any applicable deductibles and lifetime maximums, using the same sequence as the uniform matrix described at Section 1363(b)(1) of the Act.
  - (iii) A description of how the plan will provide or arrange for the provision of translation of vital documents at no charge to enrollees in accordance with the requirements of Section 1367.04 of the Act and this section. This subsection is not intended to prohibit or discourage a plan from providing translation of vital documents into a greater number of languages than the threshold languages;
  - (iv) A requirement that non-English translations of vital documents must meet the same standards required for English language versions of those documents; and
  - (v) A requirement that, with respect to vital documents that are not standardized, but which contain enrollee-specific information, a plan shall provide the English version together with the Department-approved written notice of the availability of interpretation and translation services and, if a translation is requested, the plan shall provide the requested translation in accordance with the requirements of Section 1367.04 of the Act and this section.

## **28 CCR 1300.67.04(c)(2)(G)**

### **(c) Language Assistance Program Requirements.**

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(G) Processes and standards for providing individual enrollee access to interpretation services at points of contact at no charge, including, but not limited to:

- (i) A list of the non-English languages likely to be encountered among the plan's enrollees.
- (ii) A requirement that the plan shall provide LEP enrollees with interpretation services for information contained in plan-produced documents.
- (iii) A requirement that qualified interpretation services be offered to LEP enrollees, at no cost to the enrollee, at all points of contact, including when an enrollee is accompanied by a family member or friend that can provide interpretation services. The offer of a qualified interpreter,

and the enrollee's refusal if interpretation services are declined, shall be documented in the medical record or plan file, as applicable.

(iv) When an enrollee needs interpretation services at a point of contact that occurs in a hospital, facility or provider office subject to federal or state law that requires the hospital, facility or provider office to provide interpretation services, the plan is not relieved of its obligation to comply with the requirements of Section 1367.04 of the Act or this section. Full service plans shall have reasonable processes in place to ensure that LEP enrollees can obtain the plan's assistance in arranging for the provision of timely interpretation services at all points of contact as defined at subsection (b)(4). This subsection does not prohibit a plan from incorporating into its language assistance program a contracting hospital's language assistance program if: the hospital's language assistance program provides access to interpretation services consistent with the requirements of Section 1367.04 of the Act and this section; the plan monitors for deficiencies in delivery of interpretation services by the hospital; and the plan takes appropriate corrective action to address hospital deficiencies in delivery of interpretation services to the plan's enrollees. This subsection is not intended to limit or expand any existing state or federal law.

(v) A description of the arrangements the plan will make to provide or arrange for the provision of timely interpretation services at no charge to LEP enrollees at all points of contact where language assistance is needed. For purposes of this subsection "timely" means in a manner appropriate for the situation in which language assistance is needed. Interpretation services are not timely if delay results in the effective denial of the service, benefit, or right at issue. A plan's language assistance program shall specify quality assurance standards for timely delivery of language assistance services for emergency, urgent and routine health care services, and shall include standards for coordinating interpretation services with appointment scheduling.

(vi) The range of interpretation services that will be provided to enrollees as appropriate for the particular point of contact. The range of services may include, but is not limited to:

(aa) Arranging for the availability of bilingual plan or provider staff who are trained and competent in the skill of interpreting;

(bb) Hiring staff interpreters who are trained and competent in the skill of interpreting;

(cc) Contracting with an outside interpreter service for trained and competent interpreters;

(dd) Arranging formally for the services of voluntary community interpreters who are trained and competent in the skill of interpreting; and

(ee) Contracting for telephone, videoconferencing or other telecommunications supported language interpretation services.

(vii) As used in this section, "trained and competent in the skill of interpreting," "qualified interpretation services" and "qualified interpreter" means that the interpreter meets the plan's proficiency standards established pursuant to subsection (c)(2)(H).

## **28 CCR 1300.67.04(c)(2)(H)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(H) The plan's policies and standards for ensuring the proficiency of the individuals providing translation and interpretation services. A plan may develop and apply appropriate criteria for ensuring the proficiency of translation and interpretation services or may adopt certification by an association acceptable to the Department at the time of certification. A plan's language assistance proficiency standards shall require:

- (i) A documented and demonstrated proficiency in both English and the other language;
- (ii) A fundamental knowledge in both languages of health care terminology and concepts relevant to health care delivery systems; and
- (iii) Education and training in interpreting ethics, conduct and confidentiality. The Department will accept plan standards for interpreter ethics, conduct, and confidentiality that adopt and apply, in full, the standards promulgated by the California Healthcare Interpreters Association or the National Council on Interpreting in Healthcare.

**28 CCR 1300.67.04(d)**

(d) In reviewing a plan's proposed language assistance program, the Department will evaluate the totality of the plan's language assistance program to determine whether the program as a whole provides meaningful access for LEP enrollees, and may consider relevant operational and demographic factors, including but not limited to:

- (1) Whether the plan is a full service plan or specialized health care service plan;
- (2) The nature of the points of contact;
- (3) The frequency with which particular languages are encountered;
- (4) The type of provider network and methods of health care service delivery;
- (5) The variations and character of a plan's service area;
- (6) The availability of translation and interpretation services and professionals;
- (7) The variations in cost of language assistance services and the impact on affordability of health care coverage; and
- (8) A plan's implementation of best practices and utilization of existing and emerging technologies to increase access to language assistance services, such as video interpreting programs, language translation software, collaborating with other plans to share a pool of interpreters, and other methods and technologies.
- (9) Specialized dental, vision, chiropractic, acupuncture and employee assistance program plans that demonstrate adequate availability and accessibility of qualified bilingual contracted providers and office staff to provide meaningful access to LEP enrollees, will be in compliance with the requirements of subsection (c)(2)(G)(iii) and (v). For the purposes of this subsection, specialized dental, vision, chiropractic, acupuncture and employee assistance program plans may demonstrate adequate availability and accessibility of competent and qualified bilingual providers and office staff if:
  - A) The plan identifies within its provider directories those contracting providers who are themselves bilingual or who employ other bilingual providers and/or office staff, based on language capability disclosure forms signed by the bilingual providers and/or office staff, attesting to their fluency in languages other than English;
  - B) The plan requires all contracting providers to provide quarterly updates regarding any changes in the language capabilities of currently employed providers and/or office staff by

submitting new language capability disclosure forms, and the plan updates its provider directories accordingly, and consistent with Section 1367.26 of the Act; and  
C) The plan's quality assurance audits of contracting providers confirm and document the accuracy of provider language capability disclosure forms and attestations.

**28 CCR 1300.67.04(e)(4)**

(e) Implementation.

(4) Every contract between a health care provider and a plan, including a specialized plan, that is issued, amended, delivered or renewed on or after January 1, 2009, shall require compliance with the plan's language assistance program standards developed pursuant to Section 1367.04 of the Act and this section.

(A) A plan shall retain financial responsibility for the implementation of the language assistance program required by Section 1367.04 of the Act and this section, except to the extent that delegated financial responsibility has been separately negotiated and specifically documented in written contracts. This subsection does not create an exception to Section 1367 of the Act and delegation shall not constitute a waiver of the plan's obligation to provide language assistance services required by Section 1367.04 of the Act and this section.

(B) Delegation to contracting providers of any part of the plan's obligation to provide language assistance services required by Section 1367.04 of the Act and this section constitutes a material change to a provider contract subject to the requirements of Section 1375.7 of the Act.

**28 CCR 1300.67.04(e)(2)**

(e) Implementation.

(2) By July 1, 2008, every plan shall file, in accordance with Section 1352 of the Act, an amendment to its quality assurance program providing its written language assistance program policies and procedures, together with information and documents sufficient to demonstrate compliance with the requirements and standards of Section 1367.04 of the Act and this section. The filing shall include the plan's Section 1367.04(b)(1)(B)(v) notices. All materials filed with the Department that contain documents in non-English languages shall include the following minimum supporting documentation:

(i) The English version of each non-English document.

(ii) An attestation by the translator or, if applicable, by an authorized officer of the organization providing translator services, outlining the qualifications of the translator making the translation and affirming that the non-English translation is an accurate translation of the English version.

**28 CCR 1300.68(b)(3) and (7)**

(b) The plan's grievance system shall include the following:

(3) The grievance system shall address the linguistic and cultural needs of its enrollee population as well as the needs of enrollees with disabilities. The system shall ensure all enrollees have access to and can fully participate in the grievance system by providing assistance for those with limited English proficiency or with a visual or other communicative impairment. Such assistance shall include, but is not limited to, translations of grievance procedures, forms, and plan responses to grievances, as well as access to interpreters, telephone relay systems and other devices that aid disabled individuals to communicate. Plans shall develop and file with the Department a policy describing how they ensure that their

grievance system complies with this subsection within 90 days of the effective date of this regulation.

(7) Grievance forms and a description of the grievance procedure shall be readily available at each facility of the plan, on the plan's website, and from each contracting provider's office or facility. Grievance forms shall be provided promptly upon request.

## **28 CCR 1300.70(b)(2)(G)**

(b) Quality Assurance Program Structure and Requirements.

(2) Program Requirements.

In order to meet these obligations each plan's QA program shall meet all of the following requirements:

(G) Medical groups or other provider entities may have active quality assurance programs which the plan may use. In all instances, however, the plan must retain responsibility for reviewing the overall quality of care delivered to plan enrollees.

## **28 CCR 1300.70(c)**

(c) In addition to the internal quality of care review system, a plan shall design and implement reasonable procedures for continuously reviewing the performance of health care personnel, and the utilization of services and facilities, and cost. The reasonableness of the procedures and the adequacy of the implementation thereof shall be demonstrated to the Department.

## **INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED**

**Staff responsible for the activities described above, for example:**

- Director of QM Program and/or Executive with overall responsibility for the Plan's LA Program
- Manager of Member/Customer Services
- Director or Manager of Provider Networks or Provider Contracting
- Cultural and Linguistic Coordinator/ Language Assistance Program Coordinator
- Member / Customer Service staff
- Plan Manager responsible for oversight of delegated programs

## **DOCUMENTS TO BE REVIEWED**

- Plan's LA Program and LA policies & procedures
- Workflow / Process Map / Algorithm for accessing interpreter services by point of contact.
- A list of all translated vital documents, and samples of at least 3 of the following documents:
  - Applications
  - Consent forms
  - Letters to enrollees regarding eligibility and participation criteria
  - Notices pertaining to denial, reduction, modification, or termination of services and benefits and the right to file a grievance or appeal
  - Notices advising LEP enrollees of the availability of free LA services and other outreach materials provided to enrollees

- Claims processing documents that require a response from the enrollee
- Internal interpretation/translation staff proficiency assessment tool
- If the Plan has contracted with vendor, the vendor assessment tool and/or vendor contract language that establishes the proficiency of the vendor's staff providing LA services
- Sample of completed staff proficiency assessments
- Evidence of qualifications for health plan staff utilized for interpretation/translation services
- Log(s) or report(s) of LA services provided by the Plan (directly or through vendor contracts), including request date and time and LA service delivery date and time
- Log(s) or report(s) of LA services accessed through a provider's office
- Provider Directory (identifying language capabilities of provider offices) – FOR SPECIALTY PLANS ONLY
- Sample of contracts between the Plan and Provider incorporating language regarding LA Program requirements
- Report of complaints and grievances related to LA services
- Grievance system codes for capturing complaints regarding the LA Program or LA services
- Committee minutes of the Grievance Committee
- Committee minutes of the QM/Oversight Committee reviewing the Plan's LA Program
- Delegation policies and procedures, including those detailing the processes for LA services delegation and continued oversight of delegated entities
- Pre-delegation assessments
- Delegation contracts, letters of agreements, and/or memoranda of understanding related to LA services
- Delegation audit tools, forms, and report templates related to LA services
- Delegated provider LA Program policies and procedures, if applicable
- Documentation that the Plan conducts a periodic audit of delegated activities and requires a corrective action plan for deficiencies identified with documentation of appropriate follow-up
- For specialized Plans:
  - Provider directory
  - Provider quarterly language capability updates regarding any changes
- Plan's Web site (identifying all areas related to LA services, including but not limited to: notice of availability, translated vital documents, grievance forms and information, etc.)

***LA-003 - Key Element 1:***

- 1. The Plan demonstrates that it has processes and standards for informing enrollees of the availability of free LA services.  
CA Health and Safety Code section 1367.04(b)(1)(B)(v); 28 CCR 1300.67.04(c)(2)(C); 28 CCR 1300.67.04(e)(4)**



Assessment Questions	Yes	No	N/A
1.1 Does the Plan have processes in place to inform LEP enrollees of the availability of free LA services at all identified points of contact?			
1.2 Do the processes address both medical/clinical and non-medical/administrative points of contact?			
1.3 Do the processes address both Plan and provider (such as Physicians, ancillary providers, pharmacies, facilities, etc.) points of contact?			
1.4 Does the Plan demonstrate that it includes the required notice (or translated versions of the documents) with all <i>vital documents</i> , except when documents sent in enrollee's preferred language?			
1.5 Does the Plan demonstrate that it includes the required notice (or translated versions of the documents) with all <i>enrollment materials</i> , except when documents sent in enrollee's preferred language?			
1.6 Does the Plan demonstrate that it includes the required notice (or translated versions of the documents) with all <i>correspondence</i> confirming new or renewed enrollment, except when sent in enrollee's preferred language?			
1.7 Do the Plan's brochures, newsletters, outreach and marketing materials, and other materials routinely disseminated to enrollees include statements – in English and in threshold languages – regarding the availability of free Language Assistance services?			
1.8 Has the Plan made reasonable efforts to educate contracted medical providers, ancillary providers, and pharmacies about making interpretation services available for enrollees?			

**LA-003 - Key Element 2:**

**2. The Plan demonstrates that it has processes and standards in place for providing translation services.**

**CA Health and Safety Code section 1363(b)(1); CA Health and Safety Code section 1367.04(b)(1)(C); 28 CCR 1300.67.04(c)(2)(F); 28 CCR 1300.67.04(e)(2)**

Assessment Questions	Yes	No	N/A
2.1 Does the Plan demonstrate how it provides or arranges for translation of vital documents at no charge to enrollees?			
2.2 Does the Plan provide timely translation of vital documents to the enrollee?			
2.3 Does the Plan have methods for meeting the translation requirements for subscriber contracts, EOCs, Enrollee Handbooks and other disclosure forms?			
2.4 If the Plan has excerpted from subscriber contracts, EOCs, Enrollee Handbooks, or other large disclosure forms, has the Plan ensured there is no loss of accuracy or meaning?			
2.5 If the Plan is providing a standardized Health Plan benefits and coverage matrix, does it meet the requirements of CA Health and Safety Code 1363 (b)(1)?			

Assessment Questions	Yes	No	N/A
2.6 Does the Plan include – with non-standardized enrollee specific documents – a written notice of the availability of free interpretation services?			
2.7 Does the Plan provide – upon the enrollee’s request – a written translation of a non-standardized enrollee-specific document into a threshold language within 21 days?			
2.8 For grievances that require expedited review, does the Plan provide notice of the availability of oral interpretation service?			
2.9 Does the Plan ensure that the translation is accurate?			
2.10 Does the Plan ensure that non-English translations of vital documents meet the same standards as the English versions?			

**LA-003 - Key Element 3:**

**3. The Plan demonstrates that it has processes and standards for providing interpretation services.  
28 CCR 1300.67.04(c)(2)(G)**

Assessment Questions	Yes	No	N/A
3.1 Does the Plan provide or arrange for interpretation services at no cost to the enrollee at all points of contact, including <i>medical/clinical</i> points of contact? (Such as Physician’s office, ancillary services, pharmacies, facilities, hospitals, nurse advice lines, etc.)			
3.2 Does the Plan provide or arrange for interpretation services at no cost to the enrollee at all points of contact, including non-medical/ <i>administrative</i> points of contact?			
3.3 Does the Plan provide or arrange for interpretation services for LEP enrollees for information contained in Plan-produced documents?			
3.4 Does the Plan specify quality assurance standards for timely delivery of interpretation services for <i>emergency</i> health care services?			
3.5 Does the Plan specify quality assurance standards for timely delivery of interpretation services for <i>urgent</i> health care services?			
3.6 Does the Plan specify quality assurance standards for timely delivery of interpretation services for <i>routine</i> health care services?			
3.7 Do the quality assurance standards include standards for coordinating interpretation services with appointment scheduling?			
3.8 Does the Plan arrange or coordinate timely interpretation services?			
3.9 Does the (full service) Plan provide or arrange for timely interpretation services during the Plan’s business hours?			
3.10 Does the (full service) Plan provide or arrange for timely interpretation services during <i>routine</i> medical visits?			
3.11 Does the (full service) Plan provide or arrange for timely interpretation services during <i>urgent</i> medical visits?			
3.12 Does the (full service) Plan provide or arrange for timely interpretation services during <i>emergency</i> medical visits?			

Assessment Questions	Yes	No	N/A
3.13 Is the range of interpretation services appropriate for the particular point of contact? (Medical/clinical and non-medical/ administrative)			
3.14 Do the Plan's resources (bilingual staff or provider, contracted interpreter, telephonic Language Assistance, video-conferencing supported Language Assistance services, etc.) provide timely interpretation services at all <b>medical</b> points of contact?			
3.15 Do the Plan's resources (bilingual staff or provider, contracted interpreter, telephonic Language Assistance, video-conferencing supported Language Assistance services, etc.) provide timely interpretation services at all <b>non-medical</b> points of contact?			
3.16 Does the Plan ensure that qualified interpretation services are offered to LEP enrollees, even when an enrollee is accompanied by a family member or friend that can provide interpretation services?			
3.17 If the offer is refused, is the information documented in the Plan file? (NOT REQUIRED FOR SPECIALIZED PLANS)			
3.18 Does the Plan provide evidence that interpretation services are available in languages other than threshold languages?			
3.19 Does the Plan ensure that enrollees have adequate access for administrative points of contact?			
3.20 Does the Plan ensure that enrollees have adequate access for after hours for clinical points of contact? (Urgent or emergency, for example)			

**LA-003 - Key Element 4:**

- 4. The Plan demonstrates that it has processes and standards for ensuring the quality, accuracy, and timeliness of translation and interpretation services.**  
**CA Health and Safety Code section 1367.04(b)(2) and (5); 28 CCR 1300.67.04(c)(2)(G)(vii); 28 CCR 1300.67.04(c)(2)(H); 28 CCR 1300.70(b)(2)(G); 28 CCR 1300.70(c)**

Assessment Questions	Yes	No	N/A
4.1 Has the Plan defined standards to ensure the quality and accuracy of written translations?			
4.2 Does the Plan ensure that a translated document meets the same standards required for the English version?			
4.3 Does the Plan define processes and standards for ensuring the proficiency of individuals or groups providing translation and interpretation services <b>internal Plan staff</b> ?			
4.4 Does the Plan define processes and standards for ensuring the proficiency of individuals or groups providing translation and interpretation services <b>contract or vendor staff</b> ?			
4.5 Do the Plan's proficiency standards include a <b>documented and demonstrated proficiency</b> in English and the other language?			

Assessment Questions	Yes	No	N/A
4.6 Do the Plan's proficiency standards include a <i>fundamental knowledge</i> in both languages of <i>health care terminology</i> and concepts relevant to the health care delivery system?			
4.7 Do the Plan's proficiency standards include <i>education and training</i> in interpreting ethics, conduct, and confidentiality?			
4.8 Do the standards for interpreting ethics, conduct, and confidentiality adopt the California Healthcare Interpreters Association standards or the National Council on Interpreting in Healthcare standards or another appropriate standard?			
4.9 Does the Plan 'test' or 'validate the quality' of services provided by individuals or groups providing translation and interpretation services?			

**LA-003 - Key Element 5:**

- 5. The Plan's grievance system addresses the cultural and linguistic needs of its enrollee population.**  
**CA Health and Safety Code section 1367.04(b)(1)(B)(iii); 28 CCR 1300.67.04(c)(2)(D); 28 CCR 1300.68(b)(3) and (7)**

Assessment Questions	Yes	No	N/A
5.1 Does the Plan ensure that LEP enrollees receive information regarding their rights to <i>file a grievance</i> in threshold languages and through oral interpretation?			
5.2 Does the Plan ensure that LEP enrollees receive information regarding their rights to <i>request an IMR</i> in threshold languages and through oral interpretation?			
5.3 Has the Plan translated grievance forms and procedures in threshold languages?			
5.4 Does the Plan have a process to distribute translated IMR forms and procedures in threshold languages?			
5.5 Does the Plan ensure that these translated forms and procedures are readily available to <i>enrollees</i> ?			
5.6 Does the Plan ensure that these translated forms and procedures are available to Plan <i>contracting providers</i> and <i>facilities</i> for distribution to enrollees?			
5.7 Does the Plan ensure that these translated forms and procedures are available on the <i>Plan's Web site</i> ?			
5.8 Does the Plan offer interpretation services for LEP enrollees who file a grievance or seek an IMR?			
5.9 If an LEP enrollee requests a translation of a grievance or IMR non-standardized document with enrollee-specific information, does the Plan provide notice of availability of oral interpretation for cases requiring expedited review?			
5.10 Does the Plan track and monitor grievances related to LA services?			

Assessment Questions	Yes	No	N/A
5.11 Are the results of the tracking and trending of grievances reported to the LA Program Coordinator and/or the QM or Grievance Committees?			

**End of Requirement LA-003: Language Assistance Services**

## **Requirement LA-004: Staff Training**

### **STATUTORY/REGULATORY CITATIONS**

#### **28 CCR 1300.67.04(c)(3)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(3) Staff training.

Every plan shall implement a system to provide adequate training regarding the plan's language assistance program to all plan staff who have routine contact with LEP enrollees. The training shall include instruction on:

- (A) Knowledge of the plan's policies and procedures for language assistance;
- (B) Working effectively with LEP enrollees;
- (C) Working effectively with interpreters in person and through video, telephone and other media, as may be applicable; and
- (D) Understanding the cultural diversity of the plan's enrollee population and sensitivity to cultural differences relevant to delivery of health care interpretation services.

### **INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED**

**Staff responsible for the activities described above, for example:**

- Cultural and Linguistic Coordinator/ Language Assistance Program Coordinator
- Director of Human Resources
- Manager of Training
- Member / Customer Service Staff

### **DOCUMENTS TO BE REVIEWED**

- Language Assistance (LA) Program staff training curriculum
- LA Program training materials
- LA Program training schedule
- LA Training Program evaluation summaries
- Resumes of LA Program trainers

**LA-004 - Key Element 1:**

- 1. The Plan has established and implemented an LA Training Program for all staff who have routine contact with LEP enrollees.**

**28 CCR 1300.67.04(c)(3)**

Assessment Questions	Yes	No	N/A
1.1 Has the Plan identified all Plan staff that have routine contact with LEP enrollees?			
1.2 Does the Training Program include information on the <i>Plan's LA policies and procedures</i> ?			
1.3 Does the Training Program provide instruction on <i>working effectively with LEP enrollees</i> ?			
1.4 Does the Training Program provide instruction on <i>how to work effectively with interpreters</i> ? (Whether in person or through video, telephone or other media.)			
1.5 Does the Training Program <i>address cultural diversity</i> and sensitivity to cultural differences relevant to the delivery of health care interpretation services?			
1.6 Does the LA Training Program ensure that <i>new employees</i> or <i>transferred employees receive the training</i> ?			
1.7 Does the LA Training Program apply to contracted, subcontracted, and/or affiliated staff? (As well as Plan employees.)			

**End of Requirement LA-004: Staff Training**

**Requirement LA-005: Contracted Providers and the Language Assistance Program**

**STATUTORY/REGULATORY CITATIONS**

**CA Health and Safety Code section 1367.04(f)**

(f) A contract between a health care service plan and a health care provider shall require compliance with the standards developed under this section. In furtherance of this section, the contract shall require providers to cooperate with the plan by providing any information necessary to assess compliance.

**CA Health and Safety Code section 1367.26(d)**

(d) A health care service plan shall provide this information in written form to its enrollees or prospective enrollees upon request. A plan may, with the permission of the enrollee, satisfy the requirements of this section by directing the enrollee or prospective enrollee to the plan's provider listings on its website. Plans shall ensure that the information provided is updated at least quarterly. A plan may satisfy this update requirement by providing an insert or addendum to any existing provider listing. This requirement shall not mandate a complete republishing of a plan's provider directory.

**28 CCR 1300.67.04(c)(1)(C)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(1) Enrollee Assessment. Every health care service plan and specialized health care service plan shall assess its enrollee population to develop a demographic profile and to survey the linguistic needs of individual enrollees. In assessing its enrollee population each plan shall, at a minimum:

(C) Collect, summarize and document enrollee demographic profile data in a manner that enables the plan to maintain confidentiality of personal information and to disclose the information to the Department on request for regulatory purposes and to contracting providers on request for lawful purposes, including language assistance purposes and health care quality improvement purposes. This section is not intended to limit or expand existing law regarding confidentiality of medical records.

**28 CCR 1300.67.04(c)(2)(D)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.



(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(D) Processes to ensure the plan's language assistance program conforms with the requirements of section 1300.68(b)(3) and (7) of these regulations, including standards to ensure that LEP enrollees receive information regarding their rights to file a grievance and seek an independent medical review in threshold languages and through oral interpretation.

(i) All plans shall ensure that grievance forms and procedures in threshold languages are made readily available to enrollees and to contracting providers for distribution to enrollees upon request.

(ii) All plans shall inform contracting providers that informational notices explaining how enrollees may contact their plan, file a complaint with their plan, obtain assistance from the Department and seek an independent medical review are available in non-English languages through the Department's web site. The notice and translations can be obtained online at [www.hmohelp.ca.gov](http://www.hmohelp.ca.gov) for downloading and printing. In addition, hard copies may be requested by submitting a written request to: Department of Managed Health Care, Attention: HMO Help Notices, 980 9th Street, Suite 500, Sacramento, CA 95814.

#### **28 CCR 1300.67.04(c)(2)(E)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(E) Processes to ensure that contracting providers are informed regarding the plan's standards and mechanisms for providing language assistance services at no charge to enrollees, and to ensure that LEP language needs information collected by the plan is made available to contracting providers.

#### **28 CCR 1300.67.04(c)(2)(G)**

(c) Language Assistance Program Requirements.

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(G) Processes and standards for providing individual enrollee access to interpretation services at points of contact at no charge, including, but not limited to:

- (i) A list of the non-English languages likely to be encountered among the plan's enrollees.
- (ii) A requirement that the plan shall provide LEP enrollees with interpretation services for information contained in plan-produced documents.
- (iii) A requirement that qualified interpretation services be offered to LEP enrollees, at no cost to the enrollee, at all points of contact, including when an enrollee is accompanied by a family member or friend that can provide interpretation services. The offer of a qualified interpreter, and the enrollee's refusal if interpretation services are declined, shall be documented in the medical record or plan file, as applicable.
- (iv) When an enrollee needs interpretation services at a point of contact that occurs in a hospital, facility or provider office subject to federal or state law that requires the hospital, facility or provider office to provide interpretation services, the plan is not relieved of its obligation to comply with the requirements of Section 1367.04 of the Act or this section. Full service plans shall have reasonable processes in place to ensure that LEP enrollees can obtain the plan's assistance in arranging for the provision of timely interpretation services at all points of contact as defined at subsection (b)(4). This subsection does not prohibit a plan from incorporating into its language assistance program a contracting hospital's language assistance program if: the hospital's language assistance program provides access to interpretation services consistent with the requirements of Section 1367.04 of the Act and this section; the plan monitors for deficiencies in delivery of interpretation services by the hospital; and the plan takes appropriate corrective action to address hospital deficiencies in delivery of interpretation services to the plan's enrollees. This subsection is not intended to limit or expand any existing state or federal law.
- (v) A description of the arrangements the plan will make to provide or arrange for the provision of timely interpretation services at no charge to LEP enrollees at all points of contact where language assistance is needed. For purposes of this subsection "timely" means in a manner appropriate for the situation in which language assistance is needed. Interpretation services are not timely if delay results in the effective denial of the service, benefit, or right at issue. A plan's language assistance program shall specify quality assurance standards for timely delivery of language assistance services for emergency, urgent and routine health care services, and shall include standards for coordinating interpretation services with appointment scheduling.
- (vi) The range of interpretation services that will be provided to enrollees as appropriate for the particular point of contact. The range of services may include, but is not limited to:
  - (aa) Arranging for the availability of bilingual plan or provider staff who are trained and competent in the skill of interpreting;
  - (bb) Hiring staff interpreters who are trained and competent in the skill of interpreting;
  - (cc) Contracting with an outside interpreter service for trained and competent interpreters;
  - (dd) Arranging formally for the services of voluntary community interpreters who are trained and competent in the skill of interpreting; and
  - (ee) Contracting for telephone, videoconferencing or other telecommunications supported language interpretation services.
- (vii) As used in this section, "trained and competent in the skill of interpreting," "qualified interpretation services" and "qualified interpreter" means that the interpreter meets the plan's proficiency standards established pursuant to subsection (c)(2)(H).

**28 CCR 1300.67.04 (c)(2)(G)(iii)**

**(c) Language Assistance Program Requirements**

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(G) Processes and standards for providing individual enrollee access to interpretation services at points of contact at no charge, including, but not limited to:

(iii) A requirement that qualified interpretation services be offered to LEP enrollees, at no cost to the enrollee, at all points of contact, including when an enrollee is accompanied by a family member or friend that can provide interpretation services. The offer of a qualified interpreter, and the enrollee's refusal if interpretation services are declined, shall be documented in the medical record or plan file, as applicable.

**28 CCR 1300.67.04(c)(2)(G)(iv)**

**(c) Language Assistance Program Requirements.**

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(G) Processes and standards for providing individual enrollee access to interpretation services at points of contact at no charge, including, but not limited to:

(iv) When an enrollee needs interpretation services at a point of contact that occurs in a hospital, facility or provider office subject to federal or state law that requires the hospital, facility or provider office to provide interpretation services, the plan is not relieved of its obligation to comply with the requirements of Section 1367.04 of the Act or this section. Full service plans shall have reasonable processes in place to ensure that LEP enrollees can obtain the plan's assistance in arranging for the provision of timely interpretation services at all points of contact as defined at subsection (b)(4). This subsection does not prohibit a plan from incorporating into its language assistance program a contracting hospital's language assistance program if: the hospital's language assistance program provides access to interpretation services consistent with the requirements of Section 1367.04 of the Act and this section; the plan monitors for deficiencies in delivery of interpretation services by the hospital; and the plan takes appropriate corrective action to address hospital deficiencies in delivery of interpretation services to the plan's enrollees. This subsection is not intended to limit or expand any existing state or federal law.

**28 CCR 1300.67.04(c)(2)(H)**

**(c) Language Assistance Program Requirements**

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

(2) Providing Language Assistance Services. Every plan shall develop language assistance program policies and procedures, which shall describe, at a minimum, the information outlined below.

(H) The plan's policies and standards for ensuring the proficiency of the individuals providing translation and interpretation services. A plan may develop and apply appropriate criteria for ensuring the proficiency of translation and interpretation services or may adopt certification by an association acceptable to the Department at the time of certification. A plan's language assistance proficiency standards shall require:

- (i) A documented and demonstrated proficiency in both English and the other language;
- (ii) A fundamental knowledge in both languages of health care terminology and concepts relevant to health care delivery systems; and
- (iii) Education and training in interpreting ethics, conduct and confidentiality. The Department will accept plan standards for interpreter ethics, conduct, and confidentiality that adopt and apply, in full, the standards promulgated by the California Healthcare Interpreters Association or the National Council on Interpreting in Healthcare.

**28 CCR 1300.67.04(c)(4)(A)**

**(c) Language Assistance Program Requirements.**

Every plan shall develop and implement a language assistance program, which shall comply with the requirements and standards established by Section 1367.04 of the Act and this section. The language assistance program shall be documented in written policies and procedures, and shall address, at a minimum, the following four elements: standards for enrollee assessment; standards for providing language assistance services; standards for staff training; and standards for compliance monitoring.

**(4) Compliance Monitoring.**

(A) Every plan shall monitor its language assistance program, including delegated programs, and make modifications as necessary to ensure compliance with Section 1367.04 of the Act and this section.

**28 CCR 1300.67.04(d)(9)**

(d) In reviewing a plan's proposed language assistance program, the Department will evaluate the totality of the plan's language assistance program to determine whether the program as a whole provides meaningful access for LEP enrollees, and may consider relevant operational and demographic factors, including but not limited to:

(9) Specialized dental, vision, chiropractic, acupuncture and employee assistance program plans that demonstrate adequate availability and accessibility of qualified bilingual contracted providers and office staff to provide meaningful access to LEP enrollees, will be in compliance with the requirements of subsection (c)(2)(G)(iii) and (v). For the purposes of this subsection,

specialized dental, vision, chiropractic, acupuncture and employee assistance program plans may demonstrate adequate availability and accessibility of competent and qualified bilingual providers and office staff if:

A) The plan identifies within its provider directories those contracting providers who are themselves bilingual or who employ other bilingual providers and/or office staff, based on language capability disclosure forms signed by the bilingual providers and/or office staff, attesting to their fluency in languages other than English;

B) The plan requires all contracting providers to provide quarterly updates regarding any changes in the language capabilities of currently employed providers and/or office staff by submitting new language capability disclosure forms, and the plan updates its provider directories accordingly, and consistent with Section 1367.26 of the Act; and

C) The plan's quality assurance audits of contracting providers confirm and document the accuracy of provider language capability disclosure forms and attestations.

**28 CCR 1300.67.04(e)(4)(A)**

(e) Implementation.

(4) Every contract between a health care provider and a plan, including a specialized plan, that is issued, amended, delivered or renewed on or after January 1, 2009, shall require compliance with the plan's language assistance program standards developed pursuant to Section 1367.04 of the Act and this section.

(A) A plan shall retain financial responsibility for the implementation of the language assistance program required by Section 1367.04 of the Act and this section, except to the extent that delegated financial responsibility has been separately negotiated and specifically documented in written contracts. This subsection does not create an exception to Section 1367 of the Act and delegation shall not constitute a waiver of the plan's obligation to provide language assistance services required by Section 1367.04 of the Act and this section.

**28 CCR 1300.67.04(e)(4)**

(e) Implementation.

(4) Every contract between a health care provider and a plan, including a specialized plan, that is issued, amended, delivered or renewed on or after January 1, 2009, shall require compliance with the plan's language assistance program standards developed pursuant to Section 1367.04 of the Act and this section.

(A) A plan shall retain financial responsibility for the implementation of the language assistance program required by Section 1367.04 of the Act and this section, except to the extent that delegated financial responsibility has been separately negotiated and specifically documented in written contracts. This subsection does not create an exception to Section 1367 of the Act and delegation shall not constitute a waiver of the plan's obligation to provide language assistance services required by Section 1367.04 of the Act and this section.

(B) Delegation to contracting providers of any part of the plan's obligation to provide language assistance services required by Section 1367.04 of the Act and this section constitutes a material change to a provider contract subject to the requirements of Section 1375.7 of the Act.

**28 CCR 1300.70(a)(1)**

(a) Intent and Regulatory Purpose.

(1) The QA program must be directed by providers and must document that the quality of care provided is being reviewed, that problems are being identified, that effective action is taken to improve care where deficiencies are identified, and that follow-up is planned where indicated.

**28CCR 1300.70(b)(2)(G)**

(b) Quality Assurance Program Structure and Requirements.

(2) Program Requirements.

In order to meet these obligations each plan's QA program shall meet all of the following requirements:

(G) Medical groups or other provider entities may have active quality assurance programs which the plan may use. In all instances, however, the plan must retain responsibility for reviewing the overall quality of care delivered to plan enrollees.

If QA activities are delegated to a participating provider to ensure that each provider has the capability to perform effective quality assurance activities, the plan must do the following:

(1) Inform each provider of the plan's QA program, of the scope of that provider's QA responsibilities, and how it will be monitored by the plan.

(2) Ascertain that each provider to which QA responsibilities have been delegated has an in-place mechanism to fulfill its responsibilities, including administrative capacity, technical expertise and budgetary resources.

(3) Have ongoing oversight procedures in place to ensure that providers are fulfilling all delegated QA responsibilities.

(4) Require that standards for evaluating that enrollees receive health care consistent with professionally recognized standards of practice are included in the provider's QA program, and be assured of the entity's continued adherence to these standards.

(5) Ensure that for each provider the quality assurance/utilization review mechanism will encompass provider referral and specialist care patterns of practice, including an assessment of timely access to specialists, ancillary support services, and appropriate preventive health services based on reasonable standards established by the plan and/or delegated providers.

(6) Ensure that health services include appropriate preventive health care measures consistent with professionally recognized standards of practice. There should be screening for conditions when professionally recognized standards of practice indicate that screening should be done.

**28CCR 1300.70.(c)**

(c) In addition to the internal quality of care review system, a plan shall design and implement reasonable procedures for continuously reviewing the performance of health care personnel, and the utilization of services and facilities, and cost. The reasonableness of the procedures and the adequacy of the implementation thereof shall be demonstrated to the Department.

**INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED**

**Staff responsible for the activities described above, for example:**

- Director of Provider Relations
- Medical Director

- Manager, Provider Contracting

### DOCUMENTS TO BE REVIEWED

- Related policies and procedures
- Standards and/or criteria for determining bilingual provider and office staff proficiency (SPECIALIZED PLANS ONLY)
- Provider Contracts, including contract templates as well as a random sample of executed provider contracts
- Provider Manuals
- Sample Provider Newsletters
- Provider section of the Plan's Web site
- Logs of provider complaints or grievances with the Plan regarding the LA Program or services
- Provider Directory

### LA-005 - Key Element 1:

1. The Plan ensures that provider contracts include Language Assistance Program standards and requirements.  
CA Health and Safety Code section 1367.04(f); 28 CCR 1300.67.04(c)(2)(G)(iii); 28 CCR 1300.67.04(c)(4)(A); 28 CCR 1300.67.04(e)(4)(A)

Assessment Questions	Yes	No	N/A
1.1 Do the Plan's contracts with providers require compliance with the Plan's LA Program?			
1.2 Do the Plan's contracts with providers require providers to provide any information necessary to assess compliance?			
1.3 Has the Plan retained financial responsibility for implementation of the LA Program? ( <b>Exception:</b> If the Plan delegates responsibility of its LA Program to a provider, the Plan is not required to retain financial responsibility for parts of the LA Program separately negotiated and specifically documented in written contracts.)			
1.4 If the Plan delegated any portion of its obligation to provide LA services, did the Plan file a material change for an existing or new provider contract with the Division of Licensing?			
1.5 Do the Plan's contracts with providers require providers to document declinations of interpreter services in the medical record or patient file? (NOT REQUIRED FOR SPECIALIZED PLANS)			

**LA-005 - Key Element 2:**

- 2. The Plan shall inform all contracted providers of its Language Assistance Program.  
28 CCR 1300.67.04(c)(1)(C); 28 CCR 1300.67.04(c)(2)(E)**

Assessment Questions	Yes	No	N/A
2.1 Does the Plan disclose enrollee demographic profile data to contracting providers upon request, including identification of the Plan's threshold languages?			
2.2 Has the Plan established and implemented policies and procedures that ensure <b>contracted providers</b> (such as doctors' offices, hospitals, labs, radiology centers, physical therapy offices, and pharmacy services) <b>are informed</b> of the Plan's standards and methods for providing LA services at no charge to enrollees?			
2.3 Has the Plan established and implemented policies and procedures regarding <b>communicating enrollee language preference</b> once identified to <b>contracted providers</b> ? (Such as doctors' offices, hospitals, labs, radiology centers, physical therapy offices, and pharmacy services.)			
2.4 Is confidentiality of this demographic profile information maintained?			
2.5 Does the Plan share language preference data gathered by the Plan with contracting providers? (Such as doctors' offices, hospitals, labs, radiology centers, physical therapy offices, and pharmacy services)			

**LA-005 - Key Element 3:**

- 3. The Plan informs providers of the availability of grievance and IMR forms and information in non-English languages.  
28 CCR 1300.67.04(c)(2)(D)**

Assessment Questions	Yes	No	N/A
3.1 Does the Plan ensure that translated grievance and IMR forms and procedures are readily available to contracting providers for distribution to enrollees upon request?			
3.2 Does the Plan inform contracted providers that information on how to file a grievance, seek an IMR, or otherwise obtain assistance from the Department is available in non-English languages through the Department's Web site?			

**LA-005 - Key Element 4:**

- 4. FOR SPECIALIZED PLANS ONLY: The Plan ensures that contracted bilingual providers and/or provider office staff are trained and competent to provide interpretation services.  
CA Health and Safety Code section 1367.26(d); 28 CCR 1300.67.04(c)(4)(A); 28 CCR 1300.67.04(c)(2)(G); 28 CCR 1300.67.04(c)(2)(H); 28 CCR 1300.67.04(d)(9)**



Assessment Questions	Yes	No	N/A
4.1 Does the Plan's LA Program address monitoring of provider office language capabilities?			
4.2 Does the Plan ensure that bilingual providers and/or their bilingual office staff meet the proficiency standards for interpreters?			
4.3 Is there a documented and demonstrated proficiency in English and the target language?			
4.4 Do they possess a fundamental knowledge of healthcare terminology? (In both languages.)			
4.5 Do they receive education and training in interpreting ethics, conduct, and confidentiality?			
4.6 Does the Plan provide enrollees with provider directories – reflecting the provider office language capabilities – upon request?			
4.7 Are the provider directories available in written form or on the Plan's Web site?			
<b>NOTE:</b> These next four assessment questions, when applied to specialized Plans, are requirements that the Plan may choose to fulfill <b><u>IN LIEU OF</u></b> another requirement within this section. Specialized plans may choose comply with <b>28 CCR 1300.67.04(d)(9) in place of complying with 28 CCR 1300.67.04(c)(2)(G)(iii) and (v).</b> Checking NO to these assessment questions <b><u>do not</u></b> automatically indicate the Plan is out of compliance.			
4.8 Does the Plan's provider directory identify those contracting providers who are bilingual or who employ other bilingual providers and/or office staff?			
4.9 Does the Plan require that bilingual providers and/or office staff complete and sign language capability disclosure forms to attest their fluency in languages other than English?			
4.10 Does the Plan require all contracting providers to provide quarterly updates when there are any changes in the language capabilities of currently employed providers and/or staff by submitting new language capability disclosure forms?			
4.11 Do the Plan's quality assurance audits of contracting providers confirm and document the accuracy of provider language capability disclosure forms and attestations?			

**LA-005 - Key Element 5:**

- 5. The Plan has established and implemented a delegation agreement and on-going oversight and monitoring of any Language Assistance services that are delegated to contracted providers, hospitals and/or facilities.**  
**28 CCR 1300.67.04(c)(2)(G)(iv); 28 CCR 1300.70(b)(2)(G); 28 CCR 1300.67.04(c)(4)(A); 28 CCR 1300.70(c); 28 CCR 1300.67.04(e)(4); 28 CCR 1300.70(a)(1)**

Assessment Questions	Yes	No	N/A
5.1 Does the Plan delegate the provision of any LA services (or incorporate a contracting hospital or provider group's LA Program)? <i>If 'No,' stop here; if 'Yes,' continue.</i>			
5.2 Does the Plan have policies and procedures regarding monitoring and oversight of delegated programs?			
5.3 Do the policies and procedures require ongoing oversight to ensure that delegates are fulfilling all delegated LA responsibilities?			
5.4 Does the Plan have a contract/agreement with each delegate that defines the scope of responsibilities and how the delegate will be monitored by the Plan?			
5.5 Does the Plan assess the delegate's LA policies and procedures and administrative/operational capabilities prior to delegating LA services?			
5.6 Between the delegated agreement and the Plan's LA Program, are the following key LA Program requirements met: Has the Plan reviewed the delegate's <i>list of points of contact</i> to ensure it is <b>comprehensive</b> and <b>addresses</b> enrollee <i>needs</i> ?			
5.7 Between the delegated agreement and the Plan's LA Program, are the following key LA Program requirements met: Has the Plan reviewed the delegate's <b>LA resources</b> to ensure they are <b>proficient</b> and <b>adequate to provide timely services</b> ?			
5.8 Does the contract/agreement include a statement of the right of the Plan to revoke the delegation for inadequate performance or uncorrected deficiencies?			
5.9 Does the Plan require the delegate to have standards for evaluating that enrollees receive language assistance services consistent with the standards defined by the Plan?			
5.10 Does the Plan conduct on-going, periodic monitoring of the delegated LA services provided?			
5.11 Does the Plan require or review LA services use/access reports?			
5.12 Does the Plan review delegated provider grievances related to LA services?			
5.13 Do minutes of appropriate committee meetings indicate regular Plan review of delegate reports and activities?			
5.14 Does the Plan identify and report on deficiencies of the delegated LA Program?			
5.15 Does the Plan implement corrective action and conduct follow-up reviews to address any deficiencies?			

### End of Requirement LA-005: Contracts with Providers

## **Requirement LA-006: Compliance Monitoring**

### **STATUTORY/REGULATORY CITATIONS**

#### **28 CCR 1300.67.04(c)(4)(A)**

(c) Language Assistance Program Requirements.

(4) Compliance Monitoring.

(A) Every plan shall monitor its language assistance program, including delegated programs, and make modifications as necessary to ensure compliance with Section 1367.04 of the Act and this section.

#### **28 CCR 1300.70**

(a) Intent and Regulatory Purpose.

(1) The QA program must be directed by providers and must document that the quality of care provided is being reviewed, that problems are being identified, that effective action is taken to improve care where deficiencies are identified, and that follow-up is planned where indicated.

(2) This section is not intended to set forth a prescriptive approach to QA methodology. This section is intended to afford each plan flexibility in meeting Act quality of care requirements.

(3) A plan's QA program must address service elements, including accessibility, availability, and continuity of care. A plan's QA program must also monitor whether the provision and utilization of services meets professionally recognized standards of practice.

(4) The Department's assessment of a plan's QA program will focus on:

(A) the scope of QA activities within the organization;

(B) the structure of the program itself and its relationship to the plan's administrative structure;

(C) the operation of the QA program; and

(D) the level of activity of the program and its effectiveness in identifying and correcting deficiencies in care.

To meet the requirements of the Act which require plans to continuously review the quality of care provided, each plan's quality assurance program shall be designed to ensure that:

(A) a level of care which meets professionally recognized standards of practice is being delivered to all enrollees;

(B) quality of care problems are identified and corrected for all provider entities;

(C) physicians (or in the case of specialized plans, dentists, optometrists, psychologists or other appropriate licensed professionals) who provide care to the plan's enrollees are an integral part of the QA program;

(D) appropriate care which is consistent with professionally recognized standards of practice is not withheld or delayed for any reason, including a potential financial gain and/or incentive to the plan providers, and/or others; and

(E) the plan does not exert economic pressure to cause institutions to grant privileges to health care providers that would not otherwise be granted, nor to pressure health care providers or institutions to render care beyond the scope of their training or experience.

(b) Quality Assurance Program Structure and Requirements.

(1) Program Structure.

(2) Program Requirements.

In order to meet these obligations each plan's QA program shall meet all of the following requirements:

(B) Written documents shall delineate QA authority, function and responsibility, and provide evidence that the plan has established quality assurance activities and that the plan's governing body has approved the QA Program. To the extent that a plan's QA responsibilities are delegated within the plan or to a contracting provider, the plan documents shall provide evidence of an oversight mechanism for ensuring that delegated QA functions are adequately performed.

(F) There must be administrative and clinical staff support with sufficient knowledge and experience to assist in carrying out their assigned QA activities for the plan and delegated entities.

(G) Medical groups or other provider entities may have active quality assurance programs which the plan may use. In all instances, however, the plan must retain responsibility for reviewing the overall quality of care delivered to plan enrollees.

If QA activities are delegated to a participating provider to ensure that each provider has the capability to perform effective quality assurance activities, the plan must do the following:

(1) Inform each provider of the plan's QA program, of the scope of that provider's QA responsibilities, and how it will be monitored by the plan.

(2) Ascertain that each provider to which QA responsibilities have been delegated has an in-place mechanism to fulfill its responsibilities, including administrative capacity, technical expertise and budgetary resources.

(3) Have ongoing oversight procedures in place to ensure that providers are fulfilling all delegated QA responsibilities.

(4) Require that standards for evaluating that enrollees receive health care consistent with professionally recognized standards of practice are included in the provider's QA program, and be assured of the entity's continued adherence to these standards.

(5) Ensure that for each provider the quality assurance/utilization review mechanism will encompass provider referral and specialist care patterns of practice, including an assessment of timely access to specialists, ancillary support services, and appropriate preventive health services based on reasonable standards established by the plan and/or delegated providers.

(6) Ensure that health services include appropriate preventive health care measures consistent with professionally recognized standards of practice. There should be screening for conditions when professionally recognized standards of practice indicate that screening should be done.

(H) A plan that has capitation or risk-sharing contracts must:

1. Ensure that each contracting provider has the administrative and financial capacity to meet its contractual obligations; the plan shall have systems in place to monitor QA functions.

2. Have a mechanism to detect and correct under-service by an at-risk provider (as determined by its patient mix), including possible under utilization of specialist services and preventive health care services.

(I) Inpatient Care.

1. A plan must have a mechanism to oversee the quality of care provided in an inpatient setting to its enrollees which monitors that:

a. providers utilize equipment and facilities appropriate to the care; and

b. if hospital services are fully capitated that appropriate referral procedures are in place and utilized for services not customarily provided at that hospital.

2. The plan may delegate inpatient QA functions to hospitals, and may rely on the hospital's existing QA system to perform QA functions. If a plan does delegate QA responsibilities to a hospital, the plan must ascertain that the hospital's quality assurance procedure will specifically review hospital services provided to the plan's enrollees, and will review services provided by

plan physicians within the hospital in the same manner as other physician services are reviewed.

(c) In addition to the internal quality of care review system, a plan shall design and implement reasonable procedures for continuously reviewing the performance of health care personnel, and the utilization of services and facilities, and cost. The reasonableness of the procedures and the adequacy of the implementation thereof shall be demonstrated to the Department.

#### **INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED**

##### **Staff responsible for the activities described above, for example:**

- Language Assistance Program Coordinator/Compliance Officer or equivalent
- QA Director or equivalent
- Director of Member / Customer Service
- Grievances and Appeals Coordinator
- Provider Relations Coordinator
- Members of the Governing Body (Board of Directors)
- QA Committee members
- Participating providers
- Staff responsible for developing and analyzing reports of the Language Assistance Program
- Delegate Language Assistance Program Coordinator, if Plan delegates Language Assistance Program
- Interpreter Manager
- Accounting Manager (Usage Reports)
- Operations Manager

#### **DOCUMENTS TO BE REVIEWED**

- Related policies and procedures, including:
  - Language Assistance Program
  - Quality Assurance Program – LA Program (if incorporated)
  - Processes for investigating adequate language assistance access for enrollees, system issues, and/or administrative problems; monitoring procedures including problem identification, evaluation, corrective action and follow-up monitoring.
- Compliance Work Plans
- QA Work Plans related to LA Program or services
- Board of Directors, QA Committee, and subcommittee meeting minutes where LA Program and/or services were addressed
- Tracking and trending reports of enrollee grievances (Internal Plan reports and external Reports to DMHC)
- Tracking and trending reports of provider complaints
- Plan's organizational chart(s)
- Plan compliance audit tool, methodology, outcomes
- Member/Enrollee Satisfaction Surveys or consumer ratings
- Provider Satisfaction Surveys

- Required delegate reports, if applicable
- Contract between Plan and delegates, if applicable
- Plan-generated reports to monitor LAP compliance
- Plan's evaluation of LAP

**LA-006 - Key Element 1:**

- 1. The Plan implements an active and ongoing program to continuously monitor the compliance of its LA Program.**  
**28 CCR 1300.67.04(c)(4)(A) and 28 CCR 1300.70**

Assessment Questions	Yes	No	N/A
1.1 Does the Plan have a designated person and/or department responsible for LAP monitoring?			
1.2 Does the Plan demonstrate that it <i>conducts ongoing identification of opportunities for improvement</i> for the following four LA Program components (at a minimum): enrollee assessment, standards for the provision of language assistance services, staff training, and LA Program monitoring?			
1.3 Does the Plan demonstrate that it <i>makes ongoing recommendations for corrective actions</i> based on identified issues for the following four LA Program components (at a minimum): enrollee assessment, standards for the provision of language assistance services, staff training and LA Program monitoring?			
1.4 Does the Plan conduct ongoing compliance audits of the LA Program?			
1.5 Does the Plan document its compliance monitoring activities?			
1.6 Does the Plan have a mechanism to ensure that network providers comply with LA requirements?			
1.7 Does the Plan track and trend grievances and appeals regarding LAP-related issues			
1.8 Does the Plan demonstrate the use of valid and reliable data collection and analysis methodologies to monitor compliance?			
1.9 Do Plan documents demonstrate that the Plan develops, reviews, and evaluates performance measures for ongoing monitoring of LA Program components?			
1.10 Is compliance monitoring data (e.g., identified issues, corrective actions, and opportunities for improvement) reported to the Plan's governing body and through the Plan's designated reporting channels (and/or committee structure) for review?			
1.11 Does the monitoring program define how potential modifications or improvements are identified, evaluated and implemented?			
1.12 Does the LAP Compliance Manager or other designated individual document and implement corrective actions and follow-up activities, as needed? (With Plan staff, contracted providers, contracted vendors, etc.)			

Assessment Questions	Yes	No	N/A
1.13 Does the Plan re-measure its performance to determine if the corrective actions have resulted in improved performance or the ability to meet compliance goals?			

**End of Requirement LA-006: Compliance Monitoring**